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ELECTION BY LOT AT ATHENS

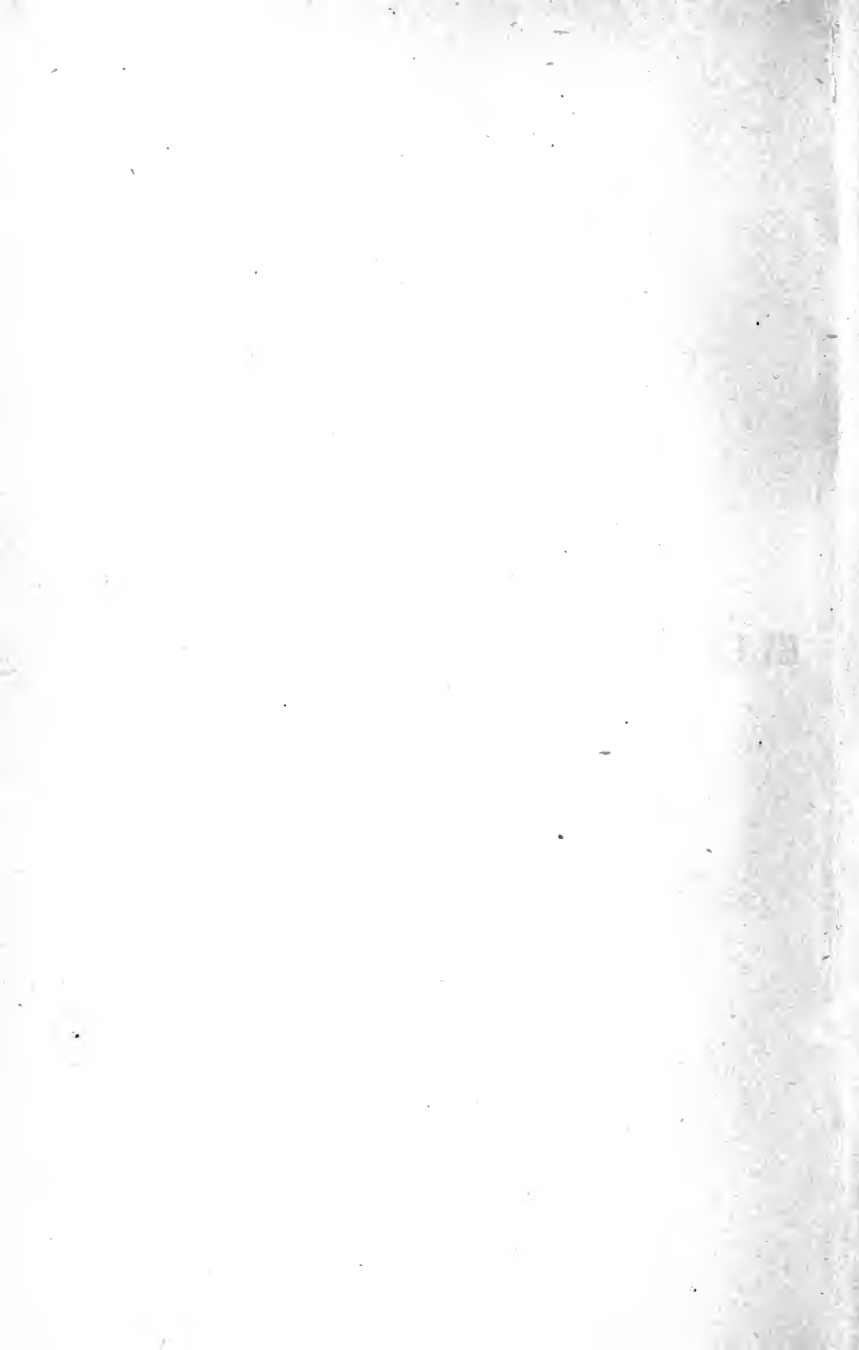
J. W. HEADLAM

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ELECTION BY LOT AT ATHENS.

BY

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PREFACE.

THE subject treated of in this Essay cannot be entirely passed over in any book dealing with Greek Political Antiquities or History. Whether it be owing to the obscurity of the matter, or to some other cause, the explanations given in the standard works are neither sufficient nor convincing. I have therefore attempted by devoting a more special study to the subject than can be done in larger books, to see how far the information we have is sufficient to enable us to understand exactly what election by lot was, how it was used, and what were its political effects.

I am not aware of the existence of any article specially devoted to the subject. So far as attention has been paid to it, it has been confined to one, and, as it seems to me, the least important part of the matter. The date and occasion of the introduction of the lot for elections to the archonship is one of those questions which is at least referred to in all books dealing with Athenian history. It appears as though the exaggerated importance attached to what is to a great extent an antiquarian point, has distracted the attention of most writers from what is at least of equal interest, the political

effects of the very much extended use of the lot in later times.

This is the more to be regretted because it seems as though the discussion of the first point could not lead to any satisfactory conclusion. Our knowledge of the end of the 6th and the beginning of the 5th century is so fragmentary, that, unless some new source of information is discovered, we can do nothing but make clever guesses. On the other hand, an understanding of the use of the lot from the middle of the 5th century onwards is essential, if we are to form any true conception of the nature of the Athenian Democracy; and the great amount of contemporary material which we possess, both in books and inscriptions, ought to enable us at least to get somewhere near the truth.

This limitation of view is found where we should least expect it,—even in Grote, Curtius, and Busolt. These and other historians almost completely neglect to explain the application of the lot to the council and other offices; and yet some explanation is surely wanted. The few monographs which touch the matter at all are almost exclusively occupied with the antiquarian question. The longest of these is an article by *Lugebil*, who was formerly professor at Petersburg University. The article was originally written in Russian, but has since appeared in German¹. The author has lately died, and so without entering on any detailed criticism it will be sufficient to say that little is to be gained by reading it. The learning and research which it

¹ In the *Jahrbuch f. kl. Philologie*, Suppl. Band, v. 1871.

contains are deprived of nearly all their value by the disproportionate length given to inconclusive discussions of unimportant points.

*Fustel de Coulanges*¹ is another writer who has paid special attention to one part of the subject. As is so often the case he has with admirable clearness put forward an explanation which if it does not contain, as he seems to think, the whole truth, is certainly an important part of the truth.

To *Müller-Strübing*² belongs the merit of attempting a thorough discussion of the political question. It is unfortunate that his merit does not go farther. As I shall attempt to show later, both his method and conclusions are radically wrong. His cleverness and ability belong rather to a political pamphleteer than to a scholar. His work is seriously marred by a deplorable absence of sound judgment or power of self-criticism. This is made more conspicuous by the very low estimate he makes of the work of men in every way his superior.

In attempting to find a satisfactory explanation of the lot, I have necessarily been compelled to form and state an opinion not only on various minor points connected with it, but also on the political working of the constitution as a whole. In doing so I have constantly referred to the books of *Gilbert*³

¹ In *La Cité antique*, and an article in the *Nouvelle Revue Historique de la Droit* 1882. The article does not add much of importance to the short statement made in the first-named work.

² In *Aristophanes und die historische Kritik*.

³ *Beiträge zur inneren Geschichte Athens*, and *Griechische Staatsalterthümer*.

and *Beloch*¹. The first volume of Gilbert's "Staatsalterthümer" I have found especially valuable. They have both been extremely useful to me in the discussion of many details; even when I have differed from them I have still learned from them what is often of most importance, a clear perception of the existence of a difficulty. It is the more necessary for me to say this because I seldom refer to them except when I differ from them: and in fact the greater part of this essay would not have been written, had I not found in their books theories on the Athenian constitution maintained, which appeared very misleading.

It is scarcely necessary to acknowledge the debt which in common with all classical students I owe to Boeckh, Hermann, and Schömann. The more one studies them the more apparent are not only the accuracy and learning, but also the wisdom and insight of these great scholars. They have that large grasp and clear perception of the mode of Greek life which gives to their work a permanent value, even if their conclusions on numerous minor points have been superseded, or corrected. Hence they are (as it seems to me) even when they have to be corrected, far safer guides than more modern authors, who often make the mistake of exaggerating the importance of some new discovery or hypothesis, and in

¹ Die Attische Politik seit Perikles.

I ought to add Mr Whibley's book on "Political Parties at Athens" published in this series, which drew my attention to many interesting points. To it too I owe my first acquaintance with much of the modern literature on the subject.

doing so have missed or ignored some simple and natural explanation which is to be found in Hermann or Schömann. This characteristic of the modern writers has at times obliged me to prove at some length points which to those unacquainted with their works would appear self-evident. The cause of this decline (for this it must be called) appears to be that while the older authors were willing to learn from the Greeks, and were content to follow Thucydides, Plato, and Aristotle, repeating and explaining their judgments, the modern writers aim at criticising and correcting them. And yet, without maintaining that those writers were infallible, it is still true that the more we study Greek life the more evident it is that not only in personal knowledge of the society in which they lived, but also in the power of analysing its constitution and characteristics, they are unsurpassed. Only those who have had to read the modern literature on the subject know how wearisome is the attempt of each new writer to display his own acumen by finding fault with them. One of the most common causes of much of their criticism is a mistaken ingenuity in the application of modern political experience to the explanation of Greek politics. This method, which was used with such admirable results by Grote, has been a false guide to many who having neither his practical experience, nor his quick intuition in dealing with political matters, write as though the phenomena of the Athenian ecclesia can at once be explained by a second-hand acquaintance with the proceedings of some German representative assembly.

As books of reference, besides Gilbert's *Staatsalterthümer* I have made special use of the article by *Busolt* on *Griechische Alterthümer* in Vol. IV. of *Iwan Müller's Handbuch der Klassischen Alterthumswissenschaft*, and the volumes of his history. Both are especially useful for their full bibliography. My chief authorities are of course the ordinary classical texts, especially the contemporary writers, such as *Aristophanes* and the *Orators*. Important as is the information preserved by second-hand authorities such as *Plutarch* and the *Lexicographers*, these later writers had only a very limited knowledge of the *Athenian constitution*, and they had few opportunities for becoming acquainted with the working of free institutions.

The information gained from inscriptions on the other hand is most valuable. They supplement the literary tradition by exposing to us aspects of political life which are not treated of in the books at all. It is to be hoped that, using them, someone will complete the work begun by *Boeckh*, and rewrite the account of the *Athenian constitution and administration*, thus doing for it what *Mommsen* has done for *Rome*. In dealing with them, besides the *Corpus* I have constantly used *Boeckh's Staatshaushaltung*¹, *Hicks' Manual of Greek Historical Inscriptions*, and *Dittenberger's Sylloge*. The delay in the appearance of the index to the second volume of the *Corpus* has caused much inconvenience.

Other books and articles which I have used

¹ I have used the new edition admirably edited by *Fränkel*. I may also mention *Pape's Lexicon der Griechischen Eigennamen*.

occasionally will be found referred to in the foot-notes.

So far I had written before it became known that the *πολιτεία τῶν Ἀθηναίων* of Aristotle had been discovered. As however the whole of the essay and introduction had been in type for some weeks, and much of it was nearly ready for the press before the new work was published, I have been obliged to leave both unchanged. They appear therefore exactly as they were written, and I have since then made no alterations of any kind in the text or notes, except linguistic corrections. I have added in an appendix a few notes in which I have pointed out the places in which the statement of the text will require alteration, and also those in which the view I have taken of doubtful matters is corroborated. In most cases references to the appendix will be found inserted in square brackets: as I had to insert many of them before the appendix was written they must not be taken as in any way a complete guide to it. I have attempted in this way so far as possible to incorporate the new information in this work: and the task has been less difficult than I had anticipated, because the *πολιτεία*, so far as it touches on the matters with which I am dealing, seems to confirm the view I have taken of the working of the Athenian constitution. The argument of the main body of the essay remains therefore valid. Had the *πολιτεία* appeared a year earlier, I should hardly have felt it necessary to give such a lengthy discussion on a point which is now I hope conclusively established by it. I should es-

pecially like to call attention to the passage quoted in the appendix, in which for the first time we get a definite statement of the principle for which I have argued, that the lot was used to secure rotation in office.

The *πολιτεία* consists of two portions; one a history of the constitution of Athens down to the year 403, the other an account of the constitution in the form known personally to the writer, written between the years 327 and 322¹.

The first of these two divisions is of particular interest because it supplies just the information which was wanting as to the early history of the lot. This subject I have discussed in the appendix to Ch. II.; the new information will be found in the notes at the end; it will be seen that we now have an authoritative statement on a matter with regard to which (as I said above, p. x) the absence of evidence seemed to have brought all further discussion to a stand-still. It is of course some satisfaction to me that on the main point the view I had supported is confirmed.

Next to this the most important part in the first section is the full account given of the constitutional policy of the party of Theramenes. This only indirectly bears on my subject.

It is difficult at once to decide exactly how much

¹ The latter date is fixed because the book must have been written before the change in the constitution made after the Lamian war.

Mr Cecil Torr in the *Athenæum* for Feb. 7, attempts to fix the latest date still more closely, because in ch. 46 there is no mention of *πεντηρῆς*, which were first used in 325.

that is new we learn from the second statistical section. The value of it is to some extent diminished because we have to be very careful not to argue directly from the statements contained in it, to the state of things which prevailed in the earlier period of the democracy. It is indeed a serious defect of the book that it gives no account of the administration, and little of the constitution, during the times of Pericles and the Peloponnesian war. This is the more serious for my purpose because I have attributed great importance to the changes supposed to have been made about the year 350, by the introduction of new elective finance offices. Much that is contained in this section was familiar to us before, because it is from it that the Lexicographers have borrowed—as appears often inaccurately. The defect in the work to which I have already referred, explains also how it is that these later writers tell so little of the constitution of the 5th century. They depended on Aristotle and the orators: and we learn little more about the 5th century from the former than we do from the latter.

One result of the discovery of this work will be, I imagine, to add considerably to Plutarch's reputation. Where they go over the same ground, it will I think be found that Plutarch has used his Aristotle very intelligently, so much so that his life of Solon may be used for determining the text; and has also at times used the same authorities as Aristotle in such a way that he supplements and perhaps even corrects him—but on this it is impossible yet to give a decided opinion.

In conclusion I must express my thanks to Mr A. A. Tilley, Fellow of King's College and University Lecturer in Roman History, who has kindly read the proofs of a considerable portion of the Essay; to Professor Pelham, one of the adjudicators for the Prince Consort Prize, for some useful criticisms on the earlier portions; and especially to my cousin Mr C. E. S. Headlam, Fellow of Trinity Hall, who has given me the most generous help in passing the essay through the Press. But for his constant advice and assistance it would be disfigured by defects even more serious than those which remain.

KING'S COLLEGE, CAMBRIDGE,

February 26, 1891.

CONTENTS.

CHAPTER I.

	PAGE
Introduction. Why the Lot was democratic . . .	1

CHAPTER II.

The Council	41
APPENDIX. On the Date of the Introduction of the Lot	78

CHAPTER III.

The Officials	88
-------------------------	----

CHAPTER IV.

Finance

(1) General Direction	111
(2) Subordinate Administration	121

CHAPTER V.

Judicial Officials	145
------------------------------	-----

CHAPTER VI.

Administrative Officials	154
------------------------------------	-----

CHAPTER VII.

The Administration of the Divisions of the State. Con- clusion	165
---	-----

APPENDIX.

On the <i>πολιτεία τῶν Ἀθηναίων</i> of Aristotle	183
INDEX	191

CHAPTER I.

THERE is no institution of ancient history which is so difficult of comprehension as that of electing officials by the lot. We have ourselves no experience of the working of such a system; any proposal to introduce it now would appear so ludicrous that it requires some effort for us to believe that it ever did prevail in a civilised community. There can be few people who, when they first hear that it existed at Athens and in other Greek states, do not receive the information with incredulity. The first impulse is to doubt the fact and to suppose there is some misunderstanding. And there have been scholars who have attempted to show that election by lot did not exist; that what is commonly known as such was really secret voting by ballot. The attempt fails; for the evidence of the authorities is overwhelming¹. *Introduction.*

Other historians recognising the fact of election by lot have treated it as a matter of no great importance; without explicitly saying so, they seem to hold that its effects were not great because the chief

¹ See an article in the *Philological Museum*, vol. ii., apparently by Sir G. C. Lewis, referring to an attempt of this kind.

offices in the state were filled in some other way: they point out truly enough that when an office such as the Archonship which in earlier times was filled by popular election came to be filled by lot, it ceased to be of any political importance; and hence they conclude that if numerous minor administrative posts were so filled, the custom is curious and rather foolish, it is characteristic of the democratic jealousy, but did not seriously affect the government of the state. That was in the hands of men elected by the Assembly. This view is natural and recommends itself to our common sense: it contains this amount of truth that of all the officials elected by lot there is no single one who stands out above the others as entrusted with especially weighty duties. But it ignores, what is equally true, that, though no individual office is of particular prominence, the work done by all the officials elected by lot was together of the greatest extent. It is scarcely too much to say that the whole administration of the state was in the hands of men appointed by lot: the serious work of the law courts, of the execution of the laws, of police, of public finance, in short of every department (with the exception of actual commands in the army) was done by officials so chosen. And, what is still more surprising, the council before which all public business passed; the council which was the only permanent governing body in the state, which had superintendence of financial matters, through which negotiations with foreign powers were conducted, this too was chosen by the lot. The whole business of the city, with the exception of that small

portion which could be directly decided on by the Assembly, was in the hands of men selected by "chance."

The more closely we analyse the working of the Athenian state, the more universal appears the operation of the lot, and the greater appears the anomaly. This has led other scholars to suggest as a solution of the difficulty that election by lot was not really what we should suppose; names were indeed put into an urn and drawn out by the Archon; but this was only a convenient veil; the result was not really left to chance: many names might be put in, but it was well known beforehand which name would come out; there were recognised conventions by which the whole thing was worked. A returning officer who did not use his discretion would have failed in his duty. Unfortunately this view also, attractive though it is, fails, as did that mentioned above, from the complete absence of evidence. I believe I am right in saying that there is not a single particle of evidence in any classical writer which justifies us in supposing that the result of the lot was not really the verdict of chance; still less that the whole community was aware of the existence of any such understanding¹.

Another method of explaining away the difficulty is to suppose that although the lot did really decide between the different candidates for any post, yet there was not really much left to chance, because the number of candidates was in one way or another strictly limited; either we may suppose that each

¹ Cf. *infra*, p. 54 n. 1 and 2.

candidate must be nominated, or that public opinion was strong enough to prevent unsuitable persons becoming candidates.

see Pericles
 I shall content myself with mentioning this view here; I shall refer to it again later, when I believe I shall be able to show that there was (at least in the times after Pericles) no important restriction of this kind to the free action of the lot; had such existed it would have been an effectual check on the objects for which the lot was introduced.

I propose therefore to enquire what were the reasons for which the Athenians adopted a custom so strange, and also to examine what were the effects of it on the political system of which it formed a part. It is scarcely necessary to point out that, without an explanation of this matter, we cannot hope thoroughly to understand or appreciate the nature of the Athenian Democracy; and I hope the enquiry, even if it is of no other use, will help to draw attention to some peculiarities of the administrative system and will thereby throw light on certain tendencies which seem to be essential to democratic government.

The connection of the lot with religious beliefs.

But before I discuss the first question, what political advantages were supposed to come from the use of the lot, it is necessary to consider a suggestion which, if true, would greatly alter the character of the enquiry. It is often maintained that the essence of the lot was religious. If this were true then we should have to consider it as we do omens and oracles; it would be another case of an old superstition interfering with the political life of the

people; its preservation would be another instance of that deep-rooted conservatism in all that concerned their worship which often reminds us that the Athenians were not all philosophers or sceptics.

It is well established that in early stages of society the lot is regarded as one among many ways through which the Gods give counsel and advice to men. This was the case both in Greece and Italy. The Greek lived in constant intercourse with his Gods; for every work which he began and every decision which he made he looked to them for advice and guidance. He required some hint as to the result of his labours or some sanction for his enterprise. And the drawing or casting of lots was always one way in which this communication took place. This is abundantly proved from the times of Homer down to the latest days of the Roman Empire: and, as might reasonably have been expected, the lot was chiefly used when the matter on which the Gods were consulted was the choice either of some man from a limited number to receive certain honours or perform certain duties, or the division among a few men of an equal number of duties.

The best illustration of this is the fact that *Priests appointed by lot.* throughout Greece it was the regular custom to use the lot for the appointment of priests and others who ministered in the temples¹. There is no doubt that this was done because it was held fitting that the God himself should choose those who were to

¹ Cf. Jules Martha, *Les Sacerdotes Athéniens* in the *Bibl. des Écoles Françaises*, xxvi. 1882. pp. 30—35.

serve him. If he had not declared his pleasure by an omen or a dream, an opinion could always be secured by the use of the lot. This custom prevailed till the latest times, and though it had probably become a mere ritual observance, it is at least a sign that the appointment of a priest had not the highest validity unless it had received the express sanction of the God.

It is easy then to assume that the lot which was so essential a part of the religious ceremonial retained its religious significance when used for political purposes; and even to draw the conclusion that the religious belief was really the chief reason why it was so extensively used. There is nothing in what we know of Athenian habits of thought to make this improbable; whatever may have been the opinions of a few educated men, there is no doubt that the great mass of the people firmly believed in the continual intervention of the Gods in the affairs of men. They were not ashamed, nor were they frightened, to allow affairs of the greatest moment to be influenced by dreams, omens, portents and oracles. They were guided by these in private and public life alike¹. We should therefore be quite prepared to find that the use of the lot in state affairs

¹ Perhaps the most remarkable illustration of this is contained in one of the speeches of Hypereides. We there find the Assembly solemnly ordering three men to go and sleep in a temple in order that one of them might learn in a dream the opinion of Amphiaraus on a disputed point of property (Or. iii pro Euxenippo, xxvii—viii). It is only necessary to refer to the *Anabasis* and *Hellenica* of Xenophon for instances of the readiness with which men would incur the greatest dangers rather than neglect an omen.

was, at least by the great mass of the people, upheld because they wished thereby to get the sanction of the Gods for the appointment of their officials.

This view becomes still more plausible when we remember that the most conspicuous of the officials so appointed were the nine Archons; men who had special religious duties and still represented in their office the old union of priest and magistrate. And the state worship at Athens was so closely connected with the public functions that even though the newer offices did not have the same religious importance as the Archonship, it is easy to suppose that the pious Athenians liked to have the same divine sanction extended also to those who filled them¹.

This however will not really explain our difficulty. The explanation has been put forward² by those who have confined their attention to the Archonship and have not sufficiently appreciated the reality and extent of the use of the lot. It may be true that there was a religious sentiment which made the

¹ Cf. Lugebil, l. c. p. 666 etc.

² Fustel de Coulanges, *Nouvelle Revue Historique de Droit*, ii. 1878, p. 617—643; and *La Cité antique*, p. 213. "Le caractère sacerdotal qui s'attachait au magistrat se montre surtout dans la manière dont il était élu. Aux yeux des anciens, il ne semblait pas que les suffrages des hommes fussent suffisants pour établir le chef de la cité. Les hommes paraissent avoir cherché, pour suppléer à la naissance, un mode d'élection que les dieux n'eussent pas à désavouer. Les Athéniens, comme beaucoup de peuples grecs, n'en virent pas de meilleur que le tirage de sort. Pour eux le sort n'était pas le hasard; le sort était la révélation de la volonté divine." He gives no illustrations of this except two passages from the Laws of Plato. Cf. p. 8 n. 1.

common people cling to the lot, and it could have happened that far-sighted statesmen used this to help in carrying out their policy, but it will not explain why statesmen who certainly were not influenced by religious conservatism wished to extend the use of it, nor how it was that the state which used it could possibly exist and prosper. What evidence there is for the view is, I believe, entirely confined to passages which speak of the Archonship, and, as I shall show, the use of the lot for this was only a small and scarcely the most important part of its application.

*Use of the
lot at
Athens
cannot be
explained
by refer-
ence to
religious
beliefs.*

The fact is that at Athens where the use of the lot was most common the evidence for its religious signification is smallest. This can be seen by the small number of references put forward by those who maintain this view. I believe the only passages which expressly refer to the lot as giving religious sanction to an appointment are two which occur in the Laws of Plato¹; and it will be sufficient to point out that the constitution of the ideal state which the philosopher is describing is essentially different from that of Athens, and that he is in the second of the two passages expressly showing how different is his ideal from the "equality" of a democracy. He is gravely reminding his readers of what the lot ought to be. Everyone will agree that the lot could be regarded as a religious institution, and that it had been such in old times, but nevertheless after the beginning of the fifth century it does not appear to have been so regarded at Athens.

This is shown even by the poets. In the Tra-

¹ Plato, *Leges* iii. 690^c; vi. 757^d.

gedians mention is often made of the lot; and occasionally in such words that we are reminded it had a religious origin. But this is only the case when it is mentioned in direct connection with the services of some temple¹. In no other cases is it spoken of as religious; and never do we find attaching to its use the awe and mystery which belongs to other more impressive means of divine utterance. Even in Æschylus it has none of the associations which belong to oracles and dreams. Still more is this true of Euripides. We find in the *Heracleidae* one striking instance of this "secularisation" of the lot. Macaria says she is willing to be made a sacrifice to Demeter, who has demanded the offering of a maiden. Iolaus demurs. He represents that it would be juster if she and her sisters drew lots, and selected the victim in this way. But Macaria will not hear of this; such a death would not please her.

*οὐκ ἂν θάνοιμι τῇ τύχῃ λαχοῦσ' ἐγώ·
χάρις γὰρ οὐ πρόσεστι².*

It would be wanting in the graciousness which belongs to a voluntary sacrifice. And Euripides does not think it necessary to put into the mouth of either of his characters the suggestion that to submit to the will of the goddess expressed in this way would be even more gracious than self-willed to force oneself upon her³.

This and similar passages do not go far: but

¹ Eur. *Ion*, 415. Æsch. *Eum.* 33.

² Eur. *Heracleidae* 547.

³ Mr Frazer in the *Golden Bough* gives an account of an old

they are some evidence that the religious feeling connected with the lot was, even in a matter directly connected with the gods, extremely weak, and point to the fact, not that the political use of the lot was a religious ceremony, but that the constant use of it for secular purposes had almost completely destroyed the old religious associations.

So when Socrates freely expressed contempt for the lot, this was made the ground for a charge of political discontent, but it is never referred to as connected with the accusations of atheism. And the speeches of the orators afford stronger testimony to the same phenomenon. These clever men who are so ready to use every fallacy likely to be effective and appeal to every prejudice or commonplace likely to give them the appearance of right, never once, in the speeches which are preserved, allude to the lot as sacred; and this though the audience they were addressing was in nearly every case selected by the lot. The absence of such a reference is sometimes startling. There is a passage in Deinarchus where he makes a passionate appeal to the dicasts to condemn Philocles. "The people," he says, "have deprived this man of his office; they did not think it right or safe that he should longer have the care of their children, and

custom which used to prevail in many parts of Scotland; pieces of dough, one of which is blackened, are put into a hat; the inhabitants one after another take each one of the pieces blind-folded out of the hat. The one who draws the black piece is a victim. He is not now burnt, but part of the company make a show of putting him into the fire. Vol. ii. p. 255—6.

will you, you who are guardians of the democracy and the laws, you whom chance and the lot have appointed to give justice for the people, will you spare him¹?" If he could have done so without being ridiculous would not Deinarchus have said *θεός* not *τύχη*? It is scarcely too much to say that not only did neither he nor his audience believe in the religious connections of the lot, but that they did not even pretend to do so.

For this is not a single case. We have for instance a speech by Lysias written in defence of a man who had been appointed *βουλευτής*, but had been accused on his *δοκιμασία*². He had been appointed by the lot: his opponents wished to unseat him on political grounds. Lysias never uses the obvious topic, he never warns his hearers that the man whom the lot has selected has acquired a peculiar right, and that to undo his appointment without due cause is a form of sacrilege.

The conclusion I draw from these facts is that the lot was religious in its origin, and that it was to the latest times throughout Greece used in the ritual of the temples with a clear acknowledgment that its decision gave a divine sanction; but that at Athens owing to its constant use for political purposes it was secularised till almost all recollection of its religious origin had disappeared; that the statesmen who developed the system in which it was used were not themselves guided by religious beliefs, and that, even if they were to some extent helped by a certain superstitious feeling among the

Conclusion.

¹ Deinarchus, in Philoclen 15—16. ² Lysias, pro Mantitheo.

poorer people, this was in no way the decisive cause of the success of their policy. Soon amidst all the busy political and legal life at Athens what there was of religious feeling about it died out. It was at Rome where it was seldom used, not at Athens where it influenced the life of every citizen, that men talked of the "religio sortis¹."

We can then return to our original question: What was the object and effect of the extended use of the lot as it prevailed during the fifth and fourth centuries? and I shall attempt to show how the Athenian statesmen used this relic of a dying superstition as the means of carrying out with remarkable vigour their political ideals.

*The lot
demo-
cratic.*

For whatever may be our difficulties the Greeks themselves seem to have had no doubt why the lot was used at Athens, nor what its effect was. On this they are explicit. Election by lot was a democratic institution; more, it was necessary to a democracy. In this they are almost unanimous; friends and enemies of democracy all agree on this point that in a perfectly democratic state magistrates will

¹ It is only necessary to read Fustel de Coulanges' account of the democracy (*La Cité antique*, iv. ch. 11) to see how impossible his theory is. It leads him to a direct misstatement of fact when he says "Les magistrats prêtres étaient choisis par le sort. Les magistrats qui n'exerçaient que des fonctions d'ordre public étaient élus par le peuple." And he is quite unable on his hypothesis to give any clear explanation of the Council. This is the more to be regretted as the mistake comes from exaggerating the importance of what is within certain limits a most useful suggestion, and one which has thrown much light on an obscure matter.

be elected by lot¹. 'I know nothing which makes us feel so clearly our separation from the political world of the Greeks as this. Here is an institution which to us is almost incredible, and yet we find writer after writer assuming that a city cannot be a real democracy without adopting it.' The few adverse criticisms on it which have been preserved to us make this only more clear; they are invariably the criticisms of men opposed to democracy, and objection to elections by lot is always accompanied by dislike of democracy. We are told that Socrates used to say that it was foolish to appoint the rulers of the city by lot; no one would have confidence in a pilot or a carpenter or a musician who had been chosen in this way; and yet which had most power to harm, an incompetent magistrate or a bad artist? But then Socrates was an irreconcilable in politics; it was not only election by lot but all the institutions of the city which he criticised; and we know that not only did his objections appear to his contemporaries foolish and pedantic, but his opinions on political matters and the free expression he gave to them were among the reasons why he was put to death as a bad citizen. Socrates thought the lot wrong and foolish; that he did so was a proof of his anti-democratic bias².

Even more striking is the attitude of the author

¹ Herod. iii. 80; Plato, Rep. 561 A—B; Aristotle, Rhet. i. 8. Müller-Strübing quotes Isocr. Areop. 20—27 as evidence that the lot was not democratic. On a point of historical fact the witness of Isocrates is of little value; and he is here arguing from the peculiar circumstances of his own time, cf. pp. 96—7; and p. 39.

² Xen. Mem. i. 2, 9.

of the pamphlet "On the Constitution of the Athenians¹." He is a vigorous and confident oligarch: for him life in a democratic state is scarcely worth living; his ideal is that the nobles (*οἱ χρηστοί*) should rule: that the people should be their subjects, their slaves (*δοῦλοι*)². All the institutions of Athens, election by lot included, are in his opinion causes of unendurable license and disorder. And yet he cannot refrain from expressing his admiration of the Athenian constitution, for he acknowledges that it completely secures what is desired; it is democracy and therefore hateful to him and to every other right-minded man who loves order and good government; but it is at least a successful democracy³; it is impossible to get a more perfect democracy than the Athenian; the people know what they want and they have got it; election by lot, freedom of speech, offices open to all however ignorant and however uneducated—they are perfectly right he says when they regard these as an essential part of a democracy. He too is of opinion that democracy without its extravagances would be no democracy at all⁴.

And this opinion was not peculiar to literary men, to philosophers and historians; it was the principle on which the practical men in Greece

¹ Ἀθηναίων πολιτεία, formerly attributed to Xenophon. Cf. esp. i. 9, *εὐνομία* cannot be found in a democracy; ii. 20, no good man can live *ἐν δημοκρατουμένῃ πόλει*.

² ii. 9, ἀπὸ τούτων τοίνυν τῶν ἀγαθῶν τάχιστ' αὖν ὁ δῆμος εἰς δουλείαν καταπέσοι.

³ ii. 26, δημοκρατίαν δ' ἐγὼ μὲν αὐτῷ τῷ δήμῳ συγγιγνώσκω αὐτὸν μὲν γὰρ εὖ ποιεῖν πᾶσι συγγνώμη ἐστίν.

⁴ ii. 19; i. 1—8.

acted. Our knowledge of the internal constitutions of other states besides Athens is small, but it is sufficient to show us that when a state took a democratic constitution election by lot was introduced along with other changes. We are specially told that this was the case at Syracuse¹ and at Tarentum²; and when Athens obliged her allies to adopt a democratic form of government, election by lot was as a matter of course included³.

Aristotle's account of the matter is very instructive⁴: he generally speaks of "election" (*χειροτονία, αἵρεσις*) as either aristocratic or oligarchic; for it gives influence to birth money or ability; he recognises indeed that election by all the citizens is to some extent democratic, but he regards it as a characteristic of the old moderate democracy (*πατρία δημοκρατία*) and he contrasts this with the new (*νεωτάτη δημοκρατία*) where offices are filled by lot⁵. Popular election is that moderate concession to democracy which is desirable in order to give the state permanence by interesting all classes in the government, but he consistently represents election by lot as a sign of what he calls the extreme democracy.

On this point there can be no doubt: election by lot was regarded by those who had experience of it as essentially democratic: if this is the case we may

*Objections
to this
considered.*

¹ Diodorus, xiii. 34.

² Ar. Pol. vii. 5 (quoted by Gilbert, Gr. St. II. p. 245, n. 1).

³ C. I. A. i. 9.

⁴ Pol. ii. 11, 1273^a; vi. 9, 1294^b; vii. 2, 1317^b; vii. 2, 1318^a.

⁵ Pol. viii. 5, 1305^a.

add, it was democratic. It would require some very strong proofs to justify us in putting aside the almost unanimous verdict of the Greeks themselves on a point on which they had complete experience and of which we have no knowledge except what we gain from them.

When then a modern historian¹ informs us that election by lot was not a democratic but an oligarchic institution, and that it was introduced at Athens not to strengthen the democracy but to temper it and make it less repugnant to the defeated oligarchs, we look for some very weighty reasons to justify the paradox. The paradox has been stated lately and has met with a certain amount of favour. This is partly due to the interest which any novelty must arouse in a subject which has been so thoroughly discussed as Athenian constitutional history; a new theory however paradoxical is sure to command a hearing if promulgated with sufficient confidence and at sufficient length; a boldly stated novelty will attract the reader who is wearied with the study of innumerable discussions of minute details. But this favourable reception is also due to the fact that it has no rival: historians have recognised that as a matter of fact election by lot was democratic, but they have not clearly explained the reason why it was so. Generally speaking it seems clear that if any one could be elected to any office, and if the poorest and most ignorant citizen had an equal chance with an Alcmaeonid or a pupil of

¹ Müller-Strübing, *Aristophanes und die historische Kritik*, p. 206 etc.

Gorgias, the state where this was the case was not an aristocracy; but still the necessity and the advantage of the system are not obvious; the orthodox traditional view is vague and has no firm foundation, so that one is naturally tempted to say there is something in the new theory: and many who do not accept it as a whole have altered their statement of the older view, and tell us that, although the lot was of course democratic, yet it was after all to a certain extent aristocratic too¹.

Our object must be then to try and understand not only why election by lot was democratic, but why the ancients considered it essential to a complete democracy.

In order to do so, it will be necessary to recall certain peculiarities of ancient democracy, which it is easy for us to ignore. The fact that the word "democracy" is still in constant use among us, and that we apply it to political phenomena of the present day, is a great obstacle to our understanding of Greek History. The danger is the greater that the modern use of the word is so nearly akin to the original meaning; but none the less the word has not now the same connotation as it had 2000 years ago;

*What the
Greeks
meant
by Demo-
cracy.*

¹ I do not mean to deny that the lot was often used in states which were not democratic, and that in the period before the Persian wars it was introduced in many oligarchies. As will be seen below, I believe that it was. (All I wish to make clear is that, as used at Athens from the time of Persian wars, it was of the very essence of the democracy. The importance of the experiment at Athens caused the older use in oligarchic states to be forgotten just as it destroyed the religious significance. Cf. Curtius, Griechische Geschichte, i. 377 (3rd edition). [Cf. Appendix.]

and it requires the greatest care when we are dealing with Greek history and reading Greek books to keep our minds free from modern associations, and to preserve the idea which we connect with the word as pure simple and clearly defined as was that of the Greeks. We have a double difficulty to surmount in achieving this, for not only do we use Greek words when we speak of modern politics, but also our method of education tempts us to think of modern events under Greek forms. Our first acquaintance with political thought comes through Thucydides and Aristotle, and we try to fit the wisdom we have learnt from them to the facts of modern life. By so doing we not only lose the freedom of thought necessary to comprehend new facts, but we unconsciously spoil our apprehensions of Greek life. By trusting too much to the fancied analogies of modern times we lose in the vividness and niceness of our conceptions of ancient politics¹.

The assumption which in one form or another seems to me to underlie most of the difficulties which historians discover in understanding why the *lot* is democratic, depends on a confusion of this kind.

¹ Müller-Strübing is one of the worst offenders. He tries (p. 205) to show that at Athens noble birth would have had no influence on elections to administrative posts, because the Radical party at Berlin returned all their candidates at the general election to the North German Parliament in 1867, and even Moltke was not successful when he became a candidate in 1871. Yet the fundamental point is ignored that the Germans elect a legislative assembly, the Athenians generals and judges; in consequence elections in Germany are purely party matters, at Athens they were much more personal.

We naturally feel a desire to fill up the parts of Athenian history where our direct authorities fail us ; and as the internal working of the constitution, which is of all points the most interesting to us, is that on which we have the least direct information, much ingenuity has been expended in putting together a whole from the small fragments of certain knowledge which have been preserved. In this praiseworthy endeavour, however, many writers have been influenced by a tacit comparison with modern societies. The result is much as if an architect tried to work the fragments of a Greek Temple into a Gothic Church.

The point in which the process is most misleading *Elections at Athens.* is that of elections. We find constantly mentioned in Greek history two parties, the Oligarchs and the Democrats: the "good," the "many:" and we know that in modern states where popular government prevails there are always two or more parties continually striving for the chief power in the state, and that the crises of the struggle are always the periodical elections. Hence the conclusion is drawn that at Athens also, where (as we know) there were periodical elections, these were as with us the centre of political interest, and that by the result of them the policy of the state was determined ; and modern work on the Athenian constitution has been directed on these lines, so that all writers even if they have not paid special attention to the subject assume the existence of party elections with party organisations to manage them. So long as we believe this, it is of course impossible not to be puzzled by the use of

the lot. It would obviously diminish the power of the popular party, who in Athens at any rate were decidedly in the majority. By losing control over the elections it appears as though they deprived themselves of their chief weapon against their opponents.

Herr Müller-Strübing has ingeniously seized on this point and boldly carried it out to its logical conclusions¹. It leads him to the paradox that the lot was introduced as a means of moderating the democracy and allowing to the nobles a possibility of attaining office. If however we examine the assumption on which it is based we are met by considerable difficulties. It would seem that, if elections were fought on party lines, and if their result had a serious influence on the direction of the policy, we should be able to find some one or more offices which were filled by the heads of the party, who in consequence of their election would be for a period the recognised leaders of the state. Many such attempts have been made; but they hardly seem to have been successful. Müller-Strübing² tries to show

¹ p. 206. That there may be no doubt as to his meaning, he puts the position in the form of a thesis:—

“Die Einführung des Looses bei der Besetzung der Aemter war ein Zugeständniss an die Minorität, war eine Massregel zur Befriedigung der staatsbürgerlichen Bedürfnisse und zur Gewährleistung der Rechte der Minorität”

and he then explains how the Athenian Demos is deserving of the highest honour because it never, even in the times of greatest bitterness against the Oligarchs, recalled this concession.

² Op. cit. p. 192. “Care was taken that the whole population of the country should at regularly recurring intervals decide on the principles according to which the state should be governed. Just as in modern constitutional states an appeal to the people must

that it was in the chief finance minister that we must look for the prime minister, but he has thereby introduced in the fifth century an office which was probably not instituted till the middle of the fourth¹. The board of generals are a more usual resource. The high position which they held and the important duties which they had to perform make it reasonable to suppose that if any office was the centre of a party contest it was this, and that if any elections decided the policy of the state it must have been the election of the generals.

Several able writers have spent much ingenuity *The* in explaining the history of Athens on this hypo- *στρατηγοί.* thesis. They point out truly enough that the board of generals were much the most powerful body in the state beside the Assembly and Council. They show that in the fifth century nearly every distinguished statesman was at some time or other a member of this board, and they also bring many facts and many arguments to prove that a man was more likely to be elected at a time when he was popular than when he was not. Pericles was year after year elected general; the time came when his influence was gone; he fell; he was not re-elected. The people could in no way better show their

take place at regular periods, when the lawfully regulated time has come for the parliamentary powers to expire. At Athens this appeal to the people took place at the quadrennial election to the more important and influential offices."

¹ His view is the same as that of Boeckh (St. d. Ath. i. 201 (222)), but all later investigations point conclusively to the fact that this office was not created till the time of Eubulus. Cf. *infra*, pp. 111—2, n. 1.

confidence in a man than by making him their general.

And so the conclusion is drawn that the board of generals had a position like that of our "ministry." They were the "government" for the year. The party to which they belonged had in their hands the executive power; for a year their policy would prevail. As a result it was the election of the generals which was the annual trial of strength between the two parties. It was then that the opposing factions met in an organised conflict. The victory in this carried with it a right to the government of the state for a whole year¹.

πρύτανις
τῶν

στρατηγῶν.

I do not propose in this place to discuss all the difficulties which are involved in this theory; difficulties which to a great extent are connected with our ignorance as to the mode in which generals were elected. It will be sufficient to point out that they are so great that some writers have found themselves obliged to assume the existence of an official whom they call πρύτανις τῶν στρατηγῶν. While the other generals were elected each by one of the tribes, this president of the generals was, we are told, elected by the whole people; his power and influence were supreme in the board, and it was by his election that the policy of the year was determined.

Now of course among the στρατηγοί there must always have been one who presided at meetings and could act as representative of the whole board. It is possible that he was called πρύτανις τῶν στρα-

¹ Beloch, Att. Politik, who is followed by Whibley, Political Parties at Athens, p. 121 etc.

τηγῶν, though I believe there is no authority for the expression. But that he was specially elected by the people to the office and not selected by the other generals, or that he was elected by a different constituency to the other generals, cannot be supported by any certain evidence. It is not even clear that the same man was *πρύτανις* during a whole year. Different again is the *στρατηγὸς αὐτοκράτωρ*. In time of war, whether the war was in Attica or elsewhere, the Assembly appointed one or more of the generals commander of the detachment of forces which was engaged, and of these in such cases one was often made "commander in chief;" he on such an occasion, either alone or with his colleagues, received special powers; he was, as it was called, made *στρατηγὸς αὐτοκράτωρ*. But this power belonged to the selected general in virtue of a responsibility which was purely military; it had nothing to do with political influence¹.

It appears then that the supposed necessity of finding some influential office to which the leading men in the state could be periodically elected leads to great difficulties. Three suggestions have been made by those interested in the discovery of the required office, namely, the *ταμίας τῶν κοινῶν προσόδων*, the board of generals, and the *πρύτανις τῶν στρατηγῶν* or *στρατηγὸς αὐτοκράτωρ*. There is hardly any evidence to support any one of these. And the very uncertainty which exists as to what was

¹ On the election of generals cf. Droysen, in *Hermes*, ix.; Beloch, *Die Attische Politik*; Gilbert, *Beiträge*; Whibley, *Political Parties*, p. 122, n. 2.

the office, possession of which gave its holder a power in the state equal to that of our prime minister, is sufficient to raise our suspicions as to the truth of the theory of periodical elections which has led scholars on this search.

*Elections
at Athens
not
political.*

I have in fact only referred at all to these theories because it seems as if their very variety were evidence that the basis common to all is unsound. Instead of enquiring whether it was the *ταμίας τῶν κοινῶν προσόδων*, or the *πρύτανις τῶν στρατηγῶν*, or the *στρατηγὸς αὐτοκράτωρ* who was "Prime Minister" at Athens, it would be better perhaps to enquire whether there is any reason for assuming the existence of an elected prime minister at all. All these views come from the supposed necessity of finding some periodical election which determined the course of politics for the ensuing year, or ensuing four years. But the very doubt and uncertainty which prevails as to what office it was which had an importance of this kind perhaps justifies us in doubting whether any such existed.

This uncertainty becomes more important when we realise the absence of any evidence that there were at Athens elections which had the importance attributed to them on this hypothesis; an absence which is perfectly explicable if elections had no political weight, but is quite irreconcilable with a theory which would make them as important as they are in England or America. The negative evidence is irresistible: about the working of the Law Courts, about the debates in the *ἐκκλησία* and *δῆμος*, about the military organisation we have a considerable

mass of information, but about elections scarcely a word. We have no single reference to a speech made in favour of either party or any candidate at an election, we have no information about the procedure at elections, we do not even know how the voting took place. We cannot account for this silence except on the supposition that elections at Athens had not the importance we are accustomed to assign to them. Were the case otherwise would Aristophanes have more frequent allusions to them? Would there not be references in the orators? Yet they give no sign that the political conflict was fought out at elections as well as in debates in the *ἐκκλησία* and before the Law Courts¹.

It is not, I think, saying too much if we conclude that the evidence we possess does not justify us in giving to elections at Athens the importance which the analogy of modern states would lead us to

¹ The most important allusion to electoral procedure in Aristophanes is the scene at the beginning of the *Ecclesiazusae*, v. 260 etc.—

Cf. esp. 299 *ἔπειτα πλησίοι καθεδούμεθ' ὡς ἂν χειροτονῶμεν ἅπανθ' ὁπρὸς ἂν δέη τὰς ἡμετέρας φίλας.*

Of. Xen. Mem. 4, 1. Plato Comicus, ap. Kock, fr. 186, *λαβοῦ λαβοῦ τῆς χειρὸς ὡς τάχιστα μου, μέλλω στρατηγὸν χειροτονεῖν Ἀγύρριον.* Thuc. ii. 65.

Aristotle in the *Politics* never speaks of elections as party affairs, nor does he refer to party elections connected with them.

On the subject of the election of generals see Droysen, *Hermes*, ix.

We hear most about the elections of exceptional officials such as ambassadors. A curious fact is preserved about one of these elections. Dem. de corona 149 (277) tells us that Æschines was nominated (*προβληθείς*) to the office of *πυλαγόρας*, and elected *τριῶν ἢ τεττάρων χειροτονησάντων.*

expect. And I propose by a short examination of certain aspects of the Athenian constitution to show why this was so. When this point has been cleared up, we shall be in a better position to understand the Greek view of election by lot.

*The reason
of this.*

It was impossible that at Athens elections should have political importance; it was impossible just because Athens was a complete democracy: for the same reason that election by lot was introduced. Elections can only be of political importance when the elected magistrates have for some period considerable independence of action, and when the sovereign power from which they derive their authority is exercised only intermittently. In such cases the people (supposing that the sovereign power and ultimate appeal is with them) does not itself govern the country; it delegates its powers to elected representatives who within wide limits are free to do just as they like. Hence the only way which the people have of directing the policy of the state is to elect men pledged to follow certain lines. From this necessity springs inevitably the whole system of party elections. Where the country is governed by an elected assembly, or an elected head of the state, the elections to these offices, in as much as they are almost the only occasions when the people exercises its sovereign power, must be events of the greatest importance.

*Contrast
of ancient
and
modern
demo-
cracy.*

In a state like Athens just the reverse is the case. It was the essence of the constitution that the demos should itself rule: it did not, as do the people in England or France, appoint its rulers; it

did not delegate its power; its sovereignty was not intermittent, it was continually exercised. And in consequence the magistrates at Athens had a position quite other to that held by ministers in a modern democracy. They were not the men to whose wisdom and discretion the votes of the people for a time entrusted the supreme management of affairs: they were appointed to carry out the decrees of the people and to obey its commands. The demos could not bind itself by any election to follow any set policy or to adhere to any plan, for the ἐκκλησία met at least once a month and could at any time be summoned, and at each meeting it was able to discuss and alter the decisions of a previous meeting. Suppose that in any year the στρατηγοί were all chosen from the war party, that these had won at the elections; the people did not thereby deprive themselves of the power of making peace during the year; a popular orator of the opposite party could bring forward a motion and carry it. But if he did so the position of the generals was unaltered; they did not resign, they had simply to carry out the policy of which they disapproved¹. In England or

¹ Beloch (Att. Politik, p. 15), "Die Geschäfte des Landes aus dem Bema der Pnyx auszuführen war in Athen noch weniger möglich als heute von der Tribune des Parlaments."

This is surely exactly wrong. The object of the whole arrangement of the constitution was to enable orators to guide the business of the state from the Assembly. If he refers to the German Parliament the statement is absurd: a German parliamentary leader has no influence at all on the conduct of business. If the reference is to the English Parliament it is wrong, because the προστάτης τοῦ δήμου had without office just as much power as an English parliamentary leader has with office.

Cf. *infra*, p. 112 etc.

America the elections are of importance because during the period which follows the people are without any direct control over the fate of the country: they have given their decision, and must abide by it. In Athens, where the sovereign assembly met constantly, the elections had in consequence no political import; men were chosen not for the policy which they advocated but for their ability and character. The question between candidates was always a personal not a party one. An election might be a sign of the popularity and influence of men who supported different policies: it could not bind the people to follow one or the other.

If we remember this, we shall no longer be disturbed by the small number of references to elections which we find in ancient writers, nor wonder at the small place which they filled in the political controversies and passions of the time; and we shall cease to enquire which official held the place of our Prime Minister. And when we realise how this direct sovereignty of the people worked, we shall see why election by lot was considered essential to the maintenance of democracy.

*Democracy is
inverted
monarchy.*

Sir Henry Maine in his book on Popular Government reminds us that democracy is a form of government, and objects to modern incorrect uses of the word. That the word should have changed its meaning, and should be now used to describe social tendencies is natural and harmless, so long as we recognise the fact; it is however of great importance that we should remember that the Greeks who

invented the word did mean by it a definite simple form of government. A Greek had no doubt what he meant by a Democracy; it was a city in which the people gathered together at a definite place in one large visible assembly governed the whole state. When we speak of popular government we mean by "people" a great mass of men living long distances apart from one another who have never seen one another and who never will. The Greeks meant a very limited number of men who were accustomed to come together in a definite place. People with us is a vague idea: the *demos* to an Athenian was a concrete thing which he had often seen and heard; it was the *ἐκκλησία*. So too by "government" we mean a vague ill-defined control of the government. In no modern country does the people govern; it is incapable of doing so, it is not sufficiently organised; the work of government is too complicated. Parliament, or Ministers, or the President, govern: the people appoint them and more or less control them. But at Athens the *δῆμος* did govern. It was not primarily an elective body, that function fell into secondary importance; it was not a legislative body, that was the only duty which was not directly within its sphere; it was a judicial, and above all an executive body.

Sir Henry Maine expresses this by saying that Democracy is inverted Monarchy. In a monarchy the king governs; he has servants, he has advisers; responsible ministers he has none: statesmen are his servants, they do his bidding, they may offer advice, but if their advice be not taken they must be

prepared to obey none the less. A favourite may become powerful, but his power depends on the king's favour; there may be rivalry, there may be antagonistic influences; round the bed-chamber of the king, or the salon of his mistress ambitious men contend for the privilege of executing his commands and influencing his will. But great parties there are none, and in a perfect monarchy there are no great ministers: the king himself decides all questions, officials have only to prepare them for his consideration; he has not only the position of a king, but the toil and labour of a ruler.

And so in a perfect democracy the people does all which in a monarchy is the work of the king. All questions of government, all the difficulties of administration, every innovation in every department comes directly before the people: the officials do not decide anything, they only formulate the questions which come before the sovereign people. They do not do the work for the people. They are not appointed to represent it. They are there as clerks or secretaries; their duty is to bring order and arrangement into the mass of details; they help the people to govern, but they help as a freedman helped the Roman Emperor. The people, like the king, has its advisers and favourites, those who know the art of influencing the royal will; these are the orators in the *ἐκκλησία*, and the first favourite of the time is *ὁ προστάτης τοῦ δήμου*. But, like the power of the royal favourites, their power does not come from office, and office is not necessary to it; the people, like the king, prefers

often to appoint to office men whose advice it would never take; men who do not personally please it, but whose ability and integrity it respects. And as in a perfect monarchy we find no great ministers of state, but the king surrounded by his satellites and courtiers rules alone,—his ministers having no part in the rule, nor any independence of action,—so in a perfect democracy we shall not expect to find great offices; the magistrates will have only to prepare business for the Assembly; they will make ruling easier, but they will not take upon themselves part of the duties of ruling; they will be wheels in the great machine, not separate machines.

Therefore, if the state is to be a democracy, *Results of this.* there must be no powerful officials; for democracy means rule by the demos, government by the ἐκκλησία; and the demos or ἐκκλησία, if it is really to rule, cannot allow any other power to exist in the state, not even if it is a body which derives its authority from the demos. The Greeks themselves were quite clear on this point¹. They saw well enough that the power of the demos was like that of a monarch, and that a “democracy” could allow no power in the state independent of the Assembly. The “tyrant demos” was a very stern reality to Thucydides and Plato

¹ Cf. Aristotle, Pol. viii. (v.) 11, 1313^b—1314 καὶ τὰ περὶ τὴν δημοκρατίαν δὲ γινόμενα τὴν τελευταίαν τυραννικὰ πάντα, καὶ γὰρ ὁ δῆμος εἶναι βούλεται μόναρχος, διὸ καὶ ὁ κόλαξ παρ’ ἀμφοτέροις ἐντιμος, παρὰ μὲν τοῖς δῆμοις ὁ δημαγωγός (ἔστι γὰρ ὁ δημαγωγός τοῦ δήμου κόλαξ) παρὰ δὲ τοῖς ὑπάρχουσιν οἱ ταπεινῶς ὁμιλοῦντες, ὅπερ ἐστὶν ἔργον κολακείας. Cf. also iii. 15, 1286^a and vi. (iv.) 4, 1292^a.

and Aristotle. Aristotle clearly recognises that in a democracy all other parts of the state must be made powerless. The demos, just like a tyrant, must prevent any individuals or institutions from acquiring too great power; it can allow neither men nor offices to be independent of itself¹.

Now what the lot did was just that at which Aristotle says the democratic legislator ought to aim. It prevented any individual getting into such a position as to enable him to have power or influence in the state independent of the Assembly. The lot was democratic because so long as officials were elected by it the supremacy of the Assembly was secured. It was introduced not only to prevent rich men being elected (certainly not to give oligarchs a chance of being elected), but to prevent the executive officials being too influential. It was not a δεύτερος πλοῦς to keep down oligarchs, even at the price of getting second-rate men in office; mediocrity in office was its object, because this was the only means of ensuring that not only the name but also the reality of power should be with the Assembly.

*Further
peculiarities result-
ing from
the
nature of
elections.*

Before however I proceed to analyse the working of it, it will be convenient to add a few words on the general subject of elections, because the peculiarities of the elections at Athens can only be understood by an attention to the results of this principle, that the demos must be supreme.

¹ Ar. Pol. vi. 4, 1292^a ἔτι δ' οἱ ταῖς ἀρχαῖς ἐγκαλοῦντες τὸν δῆμόν φασι δεῖν κρίνειν· ὁ δ' ἀσμένως δέχεται τὴν πρόσκλησιν, ὥστε καταλύονται πᾶσαι αἱ ἀρχαί.

(1) *Political associations.*

The view I have taken of the relation of the "Demos" to party politics is completely supported by what we know of the political associations at Athens. A real party organisation of the modern kind did not exist. There was none of the elaborate system which in modern states gives corporate unity to a party and preserves a continuity of tradition which makes it a permanent settled influence in the state; there was not, so far as we know, any system by which Cleon or Agyrrhius kept a register of the names of their followers and arranged how best to use their votes; there were no public meetings outside the Assembly, and even the private coming together of political friends was looked on with suspicion. Each distinguished man would have a clique or party attached to him; they would profit by his success; when he was influential they would get appointments; when he was unpopular they would be liable to oppression by the courts and the council; but any attempt to organise such associations, to make them permanent and efficient by federating the several cliques, was looked on as contrary to the spirit of the constitution, as "Oligarchic." And so we find that the real leaders of the people, the men who had most influence in the Assembly, depended least on private associations.

The *ἐταίρειαι* at Athens were in fact the re-*ἐταίρειαι*. representatives in a later stage of society of the *clientèle* which had formerly been attached to great

nobles, they were the remnant of a time when the political interests of the people were confined to the rivalry of two or more great families; they were always attached to an individual, nearly always to a Eupatrid; their members were chiefly young men closely connected with their leader by birth and similarity of habits. They were dining clubs, gambling clubs, drinking clubs, and also political clubs; but they were private and secret; they were small and short-lived; they represented not a principle but a person, not a party but a family. It was the great sign of Antiphon's political sagacity that for a time he joined these clubs and caused them to work together for a definite political purpose. By so doing he was able to overthrow the democracy.

But we cannot understand the strength of the feeling at Athens against these clubs, nor see why they should be always looked on as "Oligarchic," unless we realise that everything was regarded as "undemocratic" which gave political influence to any organisation outside the Assembly, even one which was avowedly composed of loyal democrats. The prejudice against party organisations was a necessary consequence of the principle that the demos must govern. Had there been well-organised political clubs they would have withdrawn some of its importance from the meeting of all the citizens in the Assembly. There would have been preliminary meetings, a policy would have been drawn up, men would have made up their minds how to vote, the deliberations of the Assembly would have lost something of their reality. Men would have felt that the

question had really been decided elsewhere. Hence, although there was no law against it, there was a reasonable prejudice against any meeting of citizens outside the Assembly. And although of course conferences among leaders must often have taken place, and the immediate friends of any man would come pledged to support him by vote and speech, yet the great mass of those present at a given meeting would come to hear the matter discussed with what is called "an open mind;" they would be free to give their vote according to their own feelings after listening to the speeches on either side. It is possible that an elaborate party organisation would have secured more prolonged deliberation and more security for persistence in any plan; but it would have been undemocratic¹.

(2) *Political importance of the law-courts.*

This peculiar character of the elections may afford a partial explanation of another fact in Athenian History which has been the cause of considerable comment. It is well known that every public man at Athens was liable to constant prosecutions. It is related of Aristophon that he was accused and acquitted 70 times. We know that Pericles Alcibiades Cleophon Callisthenes Demosthenes were all condemned in the courts, and we

¹ Cf. Vischer, *Kleine Schriften*, vol. i., who collects a number of facts bearing on these *ἐραυεῖαι*.

They would give their support to a member whenever he was candidate for an office, but it would be not as a member of a political party but as personal friends; though it is, of course, never possible entirely to separate the two things.

have every reason to suppose that some of them at least were innocent of the charges brought against them. Historians have been shocked by this. It pains us to see the Athenians condemning their greatest statesmen on a false charge of peculation. But we ought to remember that this was a necessary result of the Athenian system of appointment.

In a state where offices are filled by popular election, personal pique and party prejudice concentrate at the elections; it is then that men try to injure their opponents and help their friends. At Athens this was not the case. The passions which with us find expression at elections could there find no vent except in the law-courts. Popular election produces the wire-puller: election by lot produces the sycophant. Political prosecution was the recognised way of injuring an opponent. If we remember this we shall not feel inclined to attribute the over litigiousness of the Athenians to pure perverseness of disposition, and shall be still less disposed to believe that the statesmen were guilty of all the charges on which they were accused.

These political trials were really an opportunity for the expression of popular favour or distrust. A politician might fail to be elected general, and yet his eloquence would still enable him to rule the state; but if he were condemned on a serious charge he would for the time at least be in disgrace, he would probably incur partial *ἀτιμία*, he might have to leave the country, or might even lose his life. And so we find that every decided change in Athenian policy is marked, not by the election of a new finance

minister, or a new board of generals, but by the condemnation in the law courts of the former *προστάτης τοῦ δήμου*.

This was of course only possible because the verdict of the law courts was a direct expression of popular feeling almost as much as was a vote in the Assembly. Accordingly it did not much matter of what a statesman was accused; that which the jurors had to decide was whether the accused still deserved the confidence of the people. Whether an orator were accused of peculation like Pericles, or of *ἀστρατία* like Cleophon, or of sacrilege like Alcibiades, or of *παρανομία* like Ctesiphon, his actual guilt or innocence was often a very small part of the issue which depended on the verdict. Such a trial was an opportunity for all enemies of a prominent man to join in procuring his downfall. The accusation was simply an occasion for an attack. The verdict was not on the accusation, it was on the whole life of the man; it was a vote of confidence or non-confidence given by the people as a result of their observation of his political career¹, a vote of the same kind as that which in England is given at a general election.

¹ This is illustrated by the fact that bribery was so much more common in the law courts than at elections. Beloch (*Att. Politik*, p. 144) recognises it when he says of the trial of Timotheos: "Was die Anklage selbst angeht, so war sie juristisch eben so wenig begründet wie sie politisch gerechtfertigt war." He was actually deposed from his office.

Deinarchus (iii. 11) tells the jury to estimate Demosthenes not by the crimes he had committed, but by those he would have committed had he had the opportunity. This would at any rate be not quite such an immoral doctrine as at first appears, if on

(3) *Good result of absence of party elections.*

This peculiarity of the constitution which to a great extent deprived elections of their importance had one good result. The violence of party conflicts was mitigated, and faction and disorder were thereby discouraged. Athens was free from the danger which must arise when all the party jealousies and passions are concentrated at annually recurring elections. Not only was the danger entirely averted in the appointment to the greater number of offices, since they were filled by lot; but even in the election of generals, and what few other exceptions there were to the rule, the results of the system are seen.

This result was so obviously beneficial that some have considered it alone sufficient to explain and justify the use of the lot; in fact in some Greek states the lot was, we are told, simply used as a means of securing internal peace¹, and it is even possible that this was one of the chief reasons of its use at Athens in the earlier days before the establishment of the democracy². For this result was rightly considered as essential to the integrity and permanence of the democracy, because, as I have pointed out, the existence of *στάσις*, of violent compact parties,

the result of the trial depended the political power of the accused, and it was not simply a question of punishing him for what he had done.

¹ Ar. Pol. viii. (v.) 3, 1303^a. At Heræa it was introduced for this reason.

² It is an exaggeration however to say, as Lugebil does, that this was the chief object of its later use at Athens.

was an interference with the full independence of the sovereign Assembly. It remains however true that the prime reason for the maintenance of the lot was that, so long as offices were filled by it, the full supremacy of the Assembly over Council and administration was secured. I propose now, by examining the working of the different offices, to illustrate and corroborate this principle; and to discuss to what extent it was found compatible with good government and efficient administration.

Additional note on p. 16.

[Müller-Strübing, p. 208, supports his theory by a reference to Isocrates, *Areopagitica* 20—27. With reference to this it is only necessary to point out:—

(1) It is not clear whether Isocrates means that “in the times of Solon and Cleisthenes” they did not use the lot at all, or only that they used the lot to decide the claims of selected candidates.

οὐκ ἐξ ἀπάντων τὰς ἀρχὰς κληροῦντες ἀλλὰ τοὺς βελτίστους καὶ τοὺς ἱκανωτάτους ἐφ’ ἑκάστων τῶν ἔργων προκρίνοντες. [See Appendix.]

(2) That when Isocrates says the old constitution was more democratic (*δημοτικωτέρα*) he gives a reason which is obviously derived from the peculiar circumstances of the time when he is writing and not of the time of “Solon and Cleisthenes.” For the whole speech of which this passage is a part is a rhetorical exercise on the faults of modern Athens. And the allusions are thrown in without any care for their historical accuracy.

(3) § 17. He simply uses *δημοτικωτέρα* as synonymous with that which is profitable to the city. He says the true democracy is that which is just and wise.

(4) That even if Isocrates did mean what he said and professed to be writing history and not a political pamphlet, his opinion would be of no value as against the testimony of Herodotus and Plato and Aristotle.]

CHAPTER II.

THE COUNCIL.

THE maintenance of the democracy depended on the condition that there should be no other body in the state which, owing to wealth position birth, or reputation, could act independently of the Assembly. The Greeks saw clearly that power gained by one department must be at the expense of another. There was nothing to which they attached so much importance as the preservation of a due balance of power between the various institutions. This is shown in the dread of men of conspicuous ability which was so common. But in a democracy the true balance, or proportion in the government was that the Assembly should have all the power: anything which could interfere with it was a distortion¹. It was as much the object of a good democrat to

¹ That is in administration. The theory of Greek constitutional law was that the Assembly should be free only within the limits of the laws; these were normally unchangeable (cf. Wilamowitz-Möllendorff, *Aus Kydathen*); legislation was not one of the regular functions of the people. But (this always excepted) in a true democracy its power would not be impeded by the competition of any other legally constituted body.

weaken all other assemblies and institutions as it was of a tyrant to kill all other able men. And this is what the lot did at Athens¹.

For any state which is not governed by an assembly of all the citizens must be governed either by a smaller council, or by one or more magistrates. This the Greeks saw clearly enough, just as they saw that the power of one of these organs depended on the weakness of the others. They themselves divided the city states into three classes: Monarchy, Aristocracy or Oligarchy, Democracy; and to these added the state with a mixed constitution—the *πολιτεία* as Aristotle calls it. In all of these we find existing more or less developed the three organs of government, the *ἐκκλησία* or great assembly of citizens; the *βουλή* or senate, a smaller select council; and the executive magistrates. The power was divided among these three, and what was gained by one was lost by another; and just as a Democracy was a state where the *ἐκκλησία* maintained its power and held the government in its own hands, so in an Aristocracy or Oligarchy we find the chief power held by the *βουλή* or smaller council. It would be equally correct if we substituted for the Greek words, "Rule of the Many," "Rule of the Few," the expressions, "Rule by the Assembly," "Rule by the Council." To preserve the Democracy it was necessary to keep up the power of the *ἐκκλησία* as

¹ Aristotle expressly tells us that in a democracy all other offices (*ἀρχαί*) will lose power: *τέταρτος δὲ τρόπος τὸ πάντας περὶ πάντων βουλευέσθαι συνιόντας, τὰς δ' ἀρχὰς περὶ μηθενὸς κρίνειν ἀλλὰ προανακρίνειν*. Pol. vi. (iv.) 4, 1298^a.

against that of the *βουλή* and the magistrates; and this is what the lot did.

Of course it seldom happened that there was a state where any form of government was quite perfect. Even a complete monarchy, where the executive ruler was quite independent and irresponsible, was rare; though the Greek states under the tyrants had had some experience of such an arrangement. But this was a passing phase, and Athens had never fallen under the despotism of a constitutionally appointed executive body as Sparta to some extent had, and the danger of this does not seem at the beginning of the fifth century to have been great. There was no tyrant, the continuation of whose rule interfered with the independence of the assembly: the more pressing danger to be met by those who wished to establish a democracy was the rule of the aristocratic council; for it was round a council that the power of the old nobles had centred.

The power of this council is the most striking fact in the history of all city states; in mediæval Germany and in Italy just as much as in all the ancient cities, Greek Latin and Phœnician, which were scattered round the shores of the Mediterranean. It does not matter whether a seat in the council be hereditary, whether the appointment be by cooptation, or even by direct or indirect popular election; with the council rests the real power of the state, and to become a senator is the object of ambition for all who themselves aim at power. It is the councillors, the senators, the *rathsherrn* who

The council in the city state.

are looked up to by their fellow-citizens as their rulers; it is they who have a monopoly of the distinctions and rewards of government; it is on their decision that the welfare of the town depends; to be one of them is to be admitted to the *arcana* of government. There may be a sovereign popular assembly to which certain rights are reserved; but its power is uncertain and its practical importance small, compared with that of the council. And though there are of course magistrates with special duties who have a formal precedency over all other members of the council, yet as a matter of fact we generally find that the magistrates have little independence. They act not as individuals, but as members of the greater body to which they belong; the man who is consul or *bürgermeister* for a year is hardly distinguished from his associates in the council who have held office or will succeed him in it. When the common man meets a senator or councilman in the street, he looks on him with the respect or envy which is due to one who has by his office an authority which no ability nor experience can counterbalance; he is before one who is politically his better. Whether the council is filled by men of good birth and great wealth, or whether men are elected to it for their merit, those who belong to it are an exclusive body; they are a ruling clique within the state; between them and all other citizens there is a great gulf fixed.

The government in an Aristocratic or Oligarchic state is then government by a council: and all experience shows that a small body is likely to get

into its hands more power than legally belongs to it. But a council of some kind is necessary. A large assembly of many thousands cannot alone govern a state. The problem of ancient democracy was therefore to find a form of council which would help the assembly in the work of government, but would not usurp further power. There must be a council which would be efficient, but not exclusive; which would help the ἐκκλησία, but not lead or oppose it.

Now at Athens there had been in the old days an aristocratic government which was centred round a council. The founders of the Athenian democracy had therefore a double task: they had to destroy, and to build up. They had to take away the power of the old council, and invent a new one which would do the work without making for itself an independent place. For both tasks they used the same instrument, election by lot. By it they broke down the influence of the old council, and by it they made a new one which answered all the requirements of a complete democracy.

Our knowledge of the history of the change is unfortunately very small; for the most important facts we are reduced to guess-work: we have therefore to be content with relating what happened. How events happened, what brought them about, what the immediate causes were, we cannot know.

(1) How election by lot was used to deprive the old aristocratic council of its power is so well known that I need not dwell on the subject. Grote has pointed out how when once it was decided that the Areopagus should consist of all ex-archons, and *The Areopagus.*

that the archons should be chosen by lot from all citizens¹, the power and influence of the Council of the Areopagus was gone². Some religious mystery still attended it, its meetings still had some of the dignity which comes from old associations, but its political importance was over, and it remained a harmless and picturesque relic to tell of a past which was gone for ever.

Whatever may have been the time and occasion of this reform, there is no doubt that the object and the result of causing the Archons,—and so, indirectly, the members of the Council of the Areopagus,—to be elected by lot from all the citizens, was once for all to do away with the influence of the old nobility, and give the new institutions free play. Most investigations into the subject do not go further than this point. I propose now to proceed to examine how election by lot was used in the creation of the new democracy; for it might easily have happened that at Athens the old *régime* was succeeded as at Rome by a new aristocracy, or by a mixed constitution. That this did not happen was due above all to the fact that the new offices were in most cases filled by lot.

*The
Council of
500.*

(2) Just as the centre of the old constitution was the Council of the Areopagus, so the key to the new system is to be found in the Council of 500. We are told that this was instituted by Solon as the Council of 400², and enlarged by Cleisthenes to 500;

¹ I reserve a discussion on the question when the lot was introduced for election of archons. Cf. *infra*, p. 78 etc.

² [See the Appendix for the new light lately thrown on this.]

but we have no further knowledge of it in the pre-Periclean period; we do not know what it did, nor how it was filled; we do not know why Solon founded it, nor whether Cleisthenes enlarged its powers. There is scarcely a single mention of it until the time when we find it in the complete democracy existing as the great committee of the assembly, through which nearly all business had to pass¹. Without attempting to reconstruct its previous history we must be content to show what were the peculiarities which distinguished it from similar bodies in other states, and how these were connected with the manner in which its members were chosen.

A council of some kind there must be. However much power was given to the assembly, and however active it was, it was obviously impossible that it should alone transact all the work of government. The problem was to find some form of council which would be strong enough to relieve the assembly of the multitudinous details of business, and yet would not gather round itself authority, or influence, so as to become in any way independent of the assembly. A council of men elected for life was of course out of the question; it would have been merely the Areopagus again under a new form. But there were grave objections against having a council filled by popular election at all. For, firstly, the influence of the nobles was still so great that they would un-

¹ Unless it is referred to in Herodotus, v. 83; ix. 5. There seems no proof of the supposition of Fustel de Coulanges that the council was appointed by lot because the original duty of the Prytanies was care of the sacred fire. (*La Cité antique*, p. 390.)

doubtedly have occupied nearly all the places. Owners of nearly all the land, the inheritors of all the traditions of the state, hereditary priests, judges, generals, statesmen, they still had an influence which would have been little weakened by popular election. And, secondly, there was another reason why any council elected by the people would fail to do what was required, even if the influence of the nobles were broken. It would inevitably be too good. The power of any assembly does not depend only on the privileges given it by law, but on the character and antecedents of the men who form it. Had there been at Athens a council elected (even if annually elected), though its duties had been nominally exactly the same as those of the Council of 500, it would constantly have gained in power at the expense of the Assembly. The smaller a body the better it works. If in a state there are two bodies, one of many thousands meeting four times a month, another say of a hundred meeting daily, whose members are chosen from all their fellow-citizens, at the end of a hundred years the whole business will really be transacted in the smaller body, and the larger will have little to do but to ratify the decrees passed by it. And, in consequence, any citizen who is not a member of the smaller body will be in a position of disadvantage; he will be without the influence and experience which only councillors possess. The government may be a very good government; it will be what Aristotle would have held to be the best; but it will not be a democracy; it will not be government by the Assembly.

The requirements at first seem impossible; a council which shall be efficient and strong but shall never acquire independent authority; a council which shall do the work for the assembly and never put itself in opposition to the assembly. The Athenian solution was as simple as it was ingenious. The council is there to do the work which the assembly has not time to do, work which the assembly would do if there were not so much of it; but if the work of the council is of the same kind as the work of the assembly it can be done by the same people. The work of the assembly is done by all Athenian citizens together, the work of the council shall be done by all Athenian citizens in rotation. 500 one year shall be selected by lot; when they have had their term of office they shall select again by lot 500 to succeed them. In this way the council will be an exact image of the *ἐκκλησία*. We shall gain additional working power, and we shall not create an unruly servant.

The great point of this invention was that it gave practically to nearly every Athenian citizen a seat on the council. Men were eligible to the council so soon as they reached the age of thirty; the number of Athenian citizens above the age of seventeen was at the greatest not more than about 30,000, and about 460 B.C. it was probably much smaller than this. A simple calculation will show that, unless re-election was frequent, considerably more than half the citizens must at some period of their life have been members of the council. If with some authorities we reckon the number of citizens at from 15,000 to 20,000,

there would not have been enough citizens to fill the council without re-election¹.

The enormous importance of this will be evident at once. It made all the difference whether any citizen might be elected, or whether nearly every citizen must be elected². We can well understand how anyone who had had experience of it would look on election by lot as essential to a democracy. Most important among the results would be its educational value. In speaking of the Oligarchic council I remarked how much the influence it had was due to the fact that its members had a monopoly of certain kinds of experience. They alone understood the secret ways of statesmanship; they were behind the scenes; they had experience which if not so peculiar as that of a cabinet minister is greater than that of a member of Parliament. Now of course the Athenian council was not such a good school of politics as the Roman senate; but still it was before the council that the government of the city day by

¹ For the population of Attica cf. Boeckh, *Staatshaushaltung*, i. p. 42, etc.; Beloch, *Zur Bevölkerungslehre*; Thuc. ii. 13. According to his account of the number of Athenians available for military service, the total number of citizens above 17 years of age must have been about 30,000. Dem. Aristogeiton, 51, puts the population lower, *εἰσι πον δισμύριοι πάντες Ἀθηναῖοι*.

I do not know that we have any means of finding the average length of life at Athens, so that we must be content to say that when the population was at its highest the number of citizens who reached the age of 30 each year must have been something less than 1000.

² On the question of re-election to the council cf. *infra*, p. 56. Although it was possible and sometimes occurred, what evidence there is seems to show that it was not frequent.

day passed, its members were directly responsible for the safety of the city, they had to interview foreign ambassadors, they had often in private session to receive information concerning the welfare of the city. Membership of the council thus gave a practical insight into all that went on in Athens, and it must have been of the very greatest importance that this practical experience was not confined to a few but that every one had an equal share in it. Professor Freeman has remarked with justice on the political experience possessed by an average Athenian citizen; but if he had only sat in the Assembly, it would have lost much of its value; if he had never sat in the council, if none of his relatives had ever done so, if he had never spoken familiarly to anyone who had been a councillor, his experience, although considerable, would yet have been one-sided and imperfect.

The principle of rotation is even more strikingly illustrated if we look at the internal arrangements of the council. As the council was to the Assembly so were the *πρυτάνεις* to the council. The council was a committee of the assembly, to which each member was appointed in rotation; its duty was to clear the ground for the action of the assembly by disposing of and arranging all the details. The Prytanies were a committee of the council on which each member served in turn; it was a permanent sub-committee in almost permanent session; but the members of it continually changed, and thus by means of it the council was able to transact a mass of business without unduly taxing the energies of

any individual member. And if we pass from the Prytanies to the ἐπιστάτης¹ we find the same system of rotation carried even further. For one day of the year, if not every councillor, at least the great majority of them were in turn formal presidents of the whole state. In turn each presided in the meetings of the council, and (if there happened to be one on that day) of the assembly; he took the chief place in any public dinner in the Prytaneum; he took the first place in any public procession; he had the key of the state treasury. Could equality, could democracy go further?

*Were the
leading
politicians
members?*

There can, I think, be no doubt that election by lot was a democratic institution, but the original difficulty with which we started is not yet solved. How was it possible to govern the city even passably with such a constitution? What after all had this council to do, and how did it do it? It is difficult not to believe that if the council was really an important body, and if the government of the state was really managed by it, the leading men and great politicians must in some way have become members. The influence which would belong to membership is just what an ambitious man would prize; a seat must have been an object of desire; and it would surely be of great importance that a body on which such responsibilities rested should number among its members men with special knowledge of affairs, and men who in virtue of their well-known character and position would feel their

¹ The change made in the arrangements in the 4th century does not materially affect this point.

responsibility, and exercise more discretion than would men of no experience. Nothing is so dangerous as a body entrusted with public duties, the members of which have not learnt the caution which comes from experience.

It has therefore been generally assumed that in some way or another leading politicians did manage frequently to get a seat in the council; and that the popular orators of the time were as conspicuous in the debates of the council as in those of the larger assembly.

There is however some difficulty in understanding how this was possible; a difficulty which is much increased by our ignorance of the manner in which the election was managed. If, as is generally held, the lots were drawn only among the men who were nominated or came forward as candidates, then of course by constantly coming forward, any single individual would be able to ensure a considerable probability that he would be not unfrequently among those chosen. But even this point is uncertain¹. 111 ✱

¹ The only passage which I know as directly bearing on it is Lysias, xxxi. 33, where speaking of a man who had been elected a senator the orator says, *προθυμῶς κληρωσόμενος ἦλθε*. Making allowance for the desire of a rhetorical contrast, these words at the most do not imply more than that Philo had taken care that his name was entered on the lists of those eligible to the council. Such a list there must have been. If anyone's name was omitted he would claim to have it put on. The justice of his claim would not be tried unless he were actually chosen. In the parallel speech, pro Mantistheo, of Lysias, there is no reference to any special candidature. The fact also that Socrates was once a member of the council is evidence that the lots were not drawn only among men who came forward. It is improbable that he at his age would have volun-

It is perhaps equally probable that the election was managed by drawing lots, not among the names of special candidates, but from an official list of all who were eligible and not during that year otherwise occupied on the state service; this list being made out by demes, and a certain number drawn from each deme.

*Was the
lot
honestly
worked?*

Some historians have felt the difficulty so strongly that they have supposed there was some underhand means by which a public man might procure his election¹. The chief support for this is a passage where Æschines refers to Demosthenes as one who had got himself appointed councillor, not by any regular means, but by bribery and intrigue². It is however hardly safe to depend much on a casual accusation of dishonesty brought by Æschines against Demosthenes. Had there been any foundation for

tarily made an exception to his ordinary mode of life, and come forward as candidate for a seat in the council. Neither Xenophon nor Plato says anything which would lead us to suppose that this was the case (Xen. Hist. i. 7, 13; Plato, Apol. 32). [See Appendix.]

¹ Gilbert (Beiträge, p. 80 etc.) suggests that there was some way of getting elected as substitute (*ἐπιλαχών*) to another man, and then getting him ejected on *δοκιμασία*. There is absolutely no evidence for this, for the passage quoted from Plato Comicus (ap. Meineke, 2, 670) tells us nothing.

² Æschines in Ctesiphontem, 62, οὐδὲ λαχὼν οὐδὲ ἐπιλαχὼν ἀλλ' ἐκ παρασκευῆς πριάμενος, and again *ib.* 73, βουλευτῆς ὦν ἐκ παρασκευῆς.

There is a similar expression used of appointment to a priesthood. Demosthenes in Theocrinem, lviii. 29, καὶ τὴν μὲν ἀρχὴν ἣν ἐκεῖνος ἀρχὼν ἐτελεύτησεν, ἱεροποιὸς ὦν, παρὰ τοὺς νόμους ἦρχεν οὗτος, οὔτε λαχὼν οὔτ' ἐπιλαχὼν, and Æschines in Timarchum, 106 (125), οὐκ ἔστιν ἥτινα πώποτ' οὐκ ἦρξεν ἀρχὴν, οὐδεμίαν λαχὼν οὐδὲ χειροτονηθεὶς, ἀλλὰ πάσας παρὰ τοὺς νόμους πριάμενος.

the charge it would hardly have been passed over so lightly. It is probably nothing but a characteristic method of expressing annoyance that Demosthenes had been fortunate enough to get elected.

The reference is, however, of some interest as being one of the clearest cases in which we find that a politician was to some extent helped in his measures by the fact that he was a member of the council. Others do occur, but on the whole hardly with sufficient frequency to justify us in supposing that a seat was necessary for a politician, or that he could in any way reckon upon being a member. It seems as though most well-known men were in the council at least once (though this cannot be proved for nearly all); but, as we must remember, to have a seat once was not more than any citizen might hope for¹.

The only other evidence on the matter comes from some lists which have been preserved of Prytanies, belonging to the fourth century². Of these three give about the full number of councillors belonging to one tribe. An examination of them gives the following results:

(1) The number of members belonging to each deme appears to vary with the size of the deme, and the number elected for the same deme in different

¹ In a great number of cases in which men are mentioned in connection with the council, the man was not necessarily himself a member, but was present either as an official of some kind, or simply as a private man there on business. Cf. Lysias, v. 33. When we are told that Pericles was regular in his attendance at the council, it does not follow that he was a member. He went in his capacity of general.

² C. I. A. II. 864 etc.

*Evidence
of inscrip-
tions.*

RE: SANYS
NOT

years seems to be constant. From this we may gather that at the election a certain number were chosen from each deme, and that the members were not chosen from the whole tribe indiscriminately.

(2) There are a few cases where the names of the same deme are preserved for more than one year. Among these only one case of re-election is to be found. This perhaps shows that re-election was not very frequent.

(3) No names of distinguished politicians occur; but on the other hand there are a large number of names which can be identified as occurring, (α) in the private speeches of the orators, (β) in lists of trierarchs, (γ) as members of distinguished families. However, a very large proportion of the names are completely unknown, many being names which occur nowhere else in Greek history and must therefore belong to families of no distinction or wealth.

On the whole, so far as we can see, the different strata of Athenian society are each fairly represented. There is no evidence that wealthy and distinguished men abstained from sitting in the council, nor is there a larger number of them in these lists than would be a fair proportion.

(4) It is remarkable that three times near relatives (twice two brothers, and once father and son) sit together. This can hardly be a coincidence.

The conclusion from this evidence is that we have no reason for supposing that public men could in any way command a seat in the council, and it would, I think, be difficult to find the record of any events in Athenian history which would justify the

*Leading
statesmen
not
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assertion that a place in it was necessary to an ambitious man. It was possible to rule the whole state without having a seat in it. How this was so will be seen if we examine more minutely what the duties of the council were¹.

The council was not, as we are apt to think, a dignified deliberative body, where men met together quietly in order to discuss and prepare schemes for the public welfare, which should afterwards be laid before the Assembly and receive its sanction. Had the council had to initiate and decide upon *policy*, the leading orators must have been members of it; and had they been members it would doubtless have acquired this function. But, as it was, its duties though no less important were far less imposing. It was not a deliberative, but an executive body; it was concerned not with policy, but with business. It had to carry out the decrees of the Assembly; it was occupied with innumerable points of detail; it had to make decisions, not on matters of peace and war or internal reforms, but on the appointment of subordinate officials, on the amount of tribute to be paid by some ally, the necessity for rebuilding warehouses, or restoring triremes. Its time was occupied with the inspection of accounts, the making of contracts, the paying of money, the hearing of

*Duties of
the
council.*

¹ If I am right in supposing that the method of appointment prevented the leading politicians sitting regularly in the council, it will also follow that no one else could procure his election or re-election, and therefore that re-election did not prevail to such an extent as to interfere with the truth of the principle which I stated above, pp. 49—50.

petitions from individuals, the reception of information about the position of the enemy's fleet, or the price of corn in the Euxine; in fact, with the innumerable matters of administration which in a modern state are brought before the permanent officials¹. A reference to its most prominent duties will make this clear.

(1) προβού-
λευμα.

⊗ The most important of its duties was perhaps the preparation of business for the Assembly; it is well known that no decree could be passed

¹ Cf. [Xenophon] *Ἀθηναίων Πολιτεία*, iii. 2, etc. for the duties of the council;—the chief are, the appointment of 400 trierarchs every year, the assessment of the tribute every four years, to decide judicial questions, *εἴ τις τὴν ναὺν μὴ ἐπισκευάζει ἢ κατοικοδομεῖ τι δημόσιον*. It is difficult to understand to what the *πολλὰ περὶ νόμων θέσεως* in iii. 2 refers.

Boeckh, p. 187 (208), gives an account of the financial activity of the council, which shows well the kind of work it had to do:—

“It had, according to the pamphlet on the Athenian Constitution, to occupy itself with provision of money, with reception of the tribute, and as we can conclude from another source, with other matters connected with the tribute, with the administration of the marine and the sanctuaries; the leasing of the customs was conducted under its supervision, those who had public money or sacred money from the state had to pay it in the presence of the council, or it had to exact payment according to the contracts, so that it was entitled to arrest and imprison the farmers or their sureties and collectors, if they did not pay; in the council chamber the Apodectai gave their report on the receipts and the money which was due; in the presence of the council the treasurers of the goddess handed over and took over the treasure and received the fines; it determined the administration of the money, even in small matters, such as the pay of the poets; we have especial mention of its superintendence over the cavalry which was maintained by the city, and the examination of the invalids who were supported at the public expense, as part of its duties; the public debts are paid under its guidance.”

which had not been introduced officially by the council. The object of this rule is simple; it was not desired to give the council a special influence, nor to restrict the freedom of debate in the Assembly; it was not in any way a law which as at Rome gave the magistrates alone the right of introducing business. This rule did not weaken the Assembly, but strengthened it, because it provided for the proper arrangement of debates. The Prytanies summoned the Assembly, and, as the chief committee, the council had to prepare business for it. It was then only natural that they should have notice beforehand of all measures which would be introduced, since they would have to make public the matters to be discussed, and to arrange the order of business.

And, again, anyone who has had experience of public debates will know how difficult it is to get business done, and especially what trouble is caused by inaccuracy in the wording of motions. Now we know that the Athenians were very particular on this point; they took great care to provide that there were no verbal discrepancies in their laws, and no discrepancy between the laws and decrees; it was the duty of the council to see that all motions brought before the Assembly were properly worded. If an orator wished to propose a motion, he had first to move that the council introduce a *προβούλευμα* on the subject; they had to consider the matter of the proposal he wished to make, and then embody it in a motion in such a way as seemed to them most convenient; in this way provision was made

for a consideration of the form of a Psephism before the motion itself came before the Assembly. As a rule the orator would doubtless be consulted by the council, and if he were a man of position we may imagine they would propose the *προβούλευμα* in the very words which he suggested.

There would be another reason for this law. When a motion was proposed it would often be difficult to tell at first what would be its result if passed, and questions would be raised to which the answers would only be found by special enquiry. This it would be the duty of the council to make. They as the centre of the executive government, in constant communication with all the officers, and with powers to summon and examine all witnesses, would be able to collect the evidence to be laid before the Assembly.

This work of the drafting and preparing motions is really part of the subordinate work of the executive officers, for it is a way of helping to the attainment of an end which is proposed by someone else¹. The council in doing this was not directing the state, it was only helping other people to do so, and giving effect to their wishes². And it is an important confirmation of this view that in the last few years inscriptions have been discovered from which it

¹ The fact that an orator was always held responsible for any motion proposed by him shows that the council had not power seriously to alter the matter of a decree, and that in the exercise of its Probouleutic duties it did not in any way concern itself with the wisdom of the policy proposed.

² This is shown too by Aristotle's distinction between *ἡ βουλή* and *πρόβουλοι*. Cf. *infra*, p. 74.

appears that there was at Athens a body of men called *συγγραφεῖς* whose special duty it was to help in drafting decrees¹. We are not able to say with confidence whether they were members of a permanent bureau, or whether the men were appointed, as in the case of the other exceptional officials, only when their help was specially wanted, but we have the record of their existence and activity in the text of decrees which had been drawn up by them. In these cases, though the draft of the bill, as on all other occasions, was introduced to the Assembly by the Prytanies, the council had not really performed any probouleutic duties at all; they simply brought forward what the *συγγραφεῖς* had proposed. We find another instance of a similar procedure in the case where a single individual is commissioned by the Assembly to draw up the text of a decree, and then the council is ordered² to bring his proposal before the people.

In matters of foreign policy also the duty of the council was limited to the introduction of a treaty proposed either by Athenians who as ambassadors had been empowered to conduct negotiations, or by the ambassadors of other states, or,

¹ Cf. Schœll, *Commentationes in honorem Mommsennii*; Foucart, *Bulletin de Correspondance Hellénique*, 1880, p. 225; Sauppe, *Index lect. Acad. Göttingen*, 1880—81; also C. I. A. i. 58; iv. 27^b. They are mentioned before the end of the fifth century.

² C. I. A. 27^b, vv. 57—61. *περὶ δὲ τοῦ ἐλαίου τῆς ἀπαρχῆς ξυγγράψας Λάμπων ἐπιδειξάτω τῇ βουλῇ ἐπὶ τῆς ἐνάτης πρυτανείας, ἢ δὲ βουλῇ ἐς τὸν δῆμον ἐξενεγκέτω ἐπάναγκες*. The decree of which this is a clause is proposed by Lampon himself.

finally, of proposals made by the council of the allies¹.

It seems then as though the duties of the council in preparing decrees varied greatly. As it had to arrange the order of business in the Assembly, all decrees had to be brought before it for preliminary consideration; but it does not follow that it had full power of discussing and altering them. If, as sometimes was the case, a proposal was to be made of such a nature that exceptional skill and judgement was necessary in drawing up the text, the matter was generally entrusted by the Assembly to an exceptional commission of one or more men. In the case of a large number of motions which were introduced by the enterprise of a single orator, the council would simply adopt the words proposed by the author of the decree, making perhaps such alterations as were necessary to render it formally correct. The decrees introduced by the council on its own initiative would in number probably far

¹ C. I. A. ii. 52 = Hicks, Greek H. Ins. 84.

C. I. A. ii. 57^b = „ „ 94.

From the year 378 there were present in Athens representatives of all the allied states. They had power to meet and discuss matters which concerned the alliance, but the ultimate decision was always reserved for the Athenian assembly. The council however could ask for their opinion on any matter. In the first of the cases quoted the council asks the allies to consider the matter, and give their opinion to the Assembly. (*τοὺς συμμάχους δόγμα ἐξενεγκεῖν εἰς τὸν δῆμον, ὅτι ἂν αὐτοῖς βουλευομένοις δοκῇ ἀριστον εἶναι.*) In the second the allies have communicated their opinion to the council, and the council incorporates it in a *προβούλευμα*. (*ἐπεὶ δὲ οἱ σύμμαχοι δόγμα εἰσήνεγκαν εἰς τὴν βουλὴν δέχεσθαι τὴν συμμαχίαν...καὶ ἡ βουλὴ προβούλευσεν κατὰ ταῦτά.*) Cf. also p. 66.

exceed these other classes, but their separate importance would not be so great. The council would be responsible for all the decrees connected with the ordinary management of the state, constantly recurring votes of money, permission to repair public buildings, grants of citizenship, votes of thanks; matters which required a vote of the Assembly, but which would as a rule be passed without opposition, and often without discussion¹.

In these purely administrative matters the council took the initiative, and its proposals were doubtless generally adopted, for it was the representative of the permanent administrative offices. Had the council been a strong body, one which had a spirit and desires of its own, its Probouleutic duties would have been a danger to the freedom of the Assembly, for the power of initiative not only in subordinate points of administration but in great questions of policy might easily have been lost to the larger body. The Assembly would have existed only to discuss, to adopt, or reject the proposals of the council. It was a result of the method of appointment by lot to the council that this did not happen, and that, while it performed the duties of preparing and arranging business, it did not put any check on the complete freedom of discussion in the Assembly².

¹ A great number of the decrees which we possess are of this nature, as they record votes of thanks and honours to foreign envoys; they would be part of the ordinary international courtesy, and were naturally proposed by the council on its own authority.

² We hear of a board called *συλλογείς τοῦ δήμου*, but are not

(2) *Administrative duties.*

The administrative duties were so various that we can only take a few typical instances of cases where we are well informed concerning them. The extent of these duties will be more apparent when we come to deal with the other magistrates with whom the council was intimately connected. For my present purpose it is sufficient to point out that the administrative duties of the council were always connected with matters of detail; there is no sign that it could form decisions of any political moment. It could only carry out the policy of the Assembly. This is very clearly shewn by a decree which is preserved to us of the latter part of the 4th century, and is worth quoting.

In 325 B.C. an expedition was to be sent out to carry into execution a plan for settling colonies in the Adriatic. A decree was brought before the people to give the orders necessary to the proper fitting out of the expedition¹. After various orders to the inspectors of the dockyards, and other officials specially concerned, come the following clauses:—"And the Council of 500 shall superintend the fitting out of the expedition, and punish according to the laws any of the trierarchs who are unruly. And the Prytanies shall provide that the council be in constant session on the quay till the expedition has sailed. And the

told what they had to do. Cf. Boeckh, vol. ii. p. 115 (3rd Ed.); C. I. A. ii. 607, 741, 1174. It is difficult to see what scope there was for the activity of a special board in summoning the Assembly. They are apparently different from an elected officer of the same name mentioned by Harpocration.

¹ C. I. A. ii. 809 b.

Athenian people shall choose¹ ten men from all the Athenians, and they shall superintend the fitting out of the expedition in the same way as the council is ordered to do. And the council and the Prytanies after superintending the outfit shall be crowned by the people with a golden crown to the value of 1000 drachmas. And if anything is necessary to supplement this decree, the council shall have power to pass a decree, so long as it does not invalidate anything which has been decreed by the people."

This we may consider as the regular form of procedure; it is an excellent illustration of the position which the council held. The Assembly declares for a policy, arranges the general principles on which it shall be carried out, and then leaves the management of all details, within certain limits, to the council. When we are told that the council was responsible for keeping up the number of the triremes, the case is precisely similar; the Assembly made the decree or law which determined the size of the fleet; the council was responsible for its execution.

It was moreover especially the duty of the council *Financial Duties.* to watch over the public finances. Of this I shall have more to say later, for, as I shall point out, the management of the finances is more difficult to understand than any other part of the system. It will be sufficient here to recall the fact that the council had no power alone to levy any tax, or spend any

¹ That these ἀποστολῆς, being exceptional officials, should be chosen by popular election is, as I shall afterwards show, in accordance with the invariable custom.

money without authority. What it had to do was to see that the regular taxes were properly collected or sold, and that the money was paid in by the separate officials; to decide questions in disputed cases about the assessment of the tax; and to pay money as required to the various officials.

The council was in financial matters of special importance, and for the following reason. All the money of the state passed through its hands, and it was in constant communication with all the other officials; the control of the finances therefore depended on the information which was to be found either in the council chamber itself, or in the offices of the various boards which were grouped round it. And moreover the council had the duty of calling the attention of the Assembly to any deficit. For as it was responsible for the management of all the various public services, and as these could not be maintained without supplies, if when the officials applied to the council there was no money to give them, the council would have to ask the Assembly for more money; it would have to state what the deficiency was, and would perhaps accompany the statement by a recommendation of some way of raising the sum. There was however no constitutional custom which compelled the Assembly to accept the suggestion made by the council.

*Foreign
relations.*

It might be thought that there was one duty of the council which formed an obvious exception to the principle I have laid down. It had to receive foreign envoys, and consider the terms of any treaty or agreement which was to be proposed. This was

not however different from other occasions on which it prepared business for the Assembly. The council could not in any way influence the decision of the Assembly; all that it had to do was to learn from the strangers the business on which they had come, the powers which they had, and the terms which they were ready to propose. In accordance with this information a *Probouleuma* would then be drawn up introducing the subject to the Assembly. In this as in other cases the object of the *Probouleuma* was not in any way to influence the decision on the question to be debated, but to make clear what that question was. This is abundantly evident from the inscriptions, and in those cases where our other authorities give an account of the reception of ambassadors there is nothing inconsistent with it.

For instance, Thucydides in the 5th book¹ gives an account of the reception of a Spartan embassy at Athens in connection with the diplomatic complication which resulted on the peace of Nicias. We find that it was first, as was of course necessary, brought before the council, and the next day it was introduced by the *Prytanies* to the Assembly. In the preliminary hearing before the council there does not appear to have been any discussion of the proposals which the envoys were empowered to make. They simply explained what their powers were. The confusion which resulted arose from their denial in the Assembly that they had full power to treat, after the *Prytanies* had formally introduced them as plenipotentiaries.

¹ v. 45.

This preliminary meeting was of course necessary merely for formal purposes, as the Prytanies had to summon the Assembly and determine the order of the business; they could not do so till they had had an interview with the ambassadors and learnt what they had come about. This is illustrated by the scene in the *Acharnians* where the ambassadors from Persia are introduced by the Prytanies. But in this as in the other cases of *Probouleuma* the peculiar constitution of the council averted the danger of the matter being practically settled before it came to the Assembly. Had all the leading statesmen and orators been members of the council this would surely have been the case.

*Character
of the
council.*

I think then that I have said enough to show that the *βουλή* was almost entirely a business body. Its duty was not to discuss questions of policy, nor to decide on momentous matters; it had to dispose of the enormous mass of detailed business which was necessarily connected with the government of the state. Its meetings were not like those of the House of Commons; they would be more like the meeting of a municipal council, a school board, or a committee of a County Council. There would be a great deal of business to be got through, there would probably as a rule be very few members present¹, the matters to be settled would each severally be of very small importance, there would be a good deal of opening for personal favour but very little for political influence. A *βουλευτής* might

¹ Cf. Dem. in *Androktionem*, 604, 36, where he speaks of a *βουλευτής* as "hardly ever entering the council chamber."

help a friend or injure an enemy¹. He could not direct the policy of the city. What was important was that the council should as a rule be without bias, that it should not represent any party or interest, that it should get through its work quickly, and that there should be as little bribery as possible.

There was obviously then no reason at all why orators or statesmen should be members of it; they would be able to give their opinions on any question which directly interested them, their influence would be as great in the council as in the Assembly or in the law-courts, but it would be great not because they had a vote, but because they had the power of persuading other people. Now this removes one of our great difficulties. So long as we speak vaguely of the *βουλή* as responsible for the safety of the state, and as director of the finances, it is difficult to see how it was possible to exclude the leading men in the state. When we see exactly in what the duties consisted the answer is clear.

Two points to be noticed result from this. The first is the publicity of the meetings.

The meetings of a deliberative assembly may be public and yet the result be little influenced by the opinions of people outside, at any rate by those of individuals. But the meetings of a business body are public in a very different sense; for it must be constantly in communication with people who are not

¹ The case given in Aesch. in Timarchum, 109 etc. (127, 28) is an instance where a *βουλευτής* used his position to help a *ραπίας* in peculation; how he was enabled to do so we are not informed.

members. There can seldom have been any business brought before the council which did not require the presence of someone who was a stranger, who would have to be interrogated, to give information, or to explain his wishes. Whether it was an official who wanted money for some public purpose, or the representatives of a town which claimed an alleviation of tribute, or Persian ambassadors who had to be introduced to the Assembly, or a trierarch who had lost his ship, or the farmer of a tax, or some man who had discovered an oligarchic conspiracy, or an orator who wished to propose a motion in the Assembly,—all would have to come in person before the council to explain their plan and justify their request¹. And moreover the council would always be able to summon to their assistance anyone whose special knowledge would be of use. This they would especially do when they wanted the help of skilled advice, and we have frequent references to orators and others who were present in the council without being members of it.

But not only was the council in this way constantly brought into communication with men of all classes in the state, but its sittings were themselves public. This was necessary. The powers of the council were of such a kind as could not be safely entrusted to a body sitting privately. That would have been as dangerous to personal

¹ This is shown by the fact recorded in the work already quoted, where the author says that many people had to wait a whole year before they could get the council to attend to their business. [Xenophon] *Ἀθηναίων Πολιτεία*, iii. 1, etc.

liberty as are law-courts where the hearing is not public.

Had the council been a small body which sat privately, it would have had an almost unlimited power over the whole state. As it was, it sat in public; the citizens could stand round and listen to the proceedings. These proceedings would often be really judicial, sometimes judicial in form. The great numbers of the council would, in important cases, give to its meetings the appearance of one of the jury courts. A case would be brought up for decision: an appeal, for instance, from the assessment of the *τακταί*, or the confirmation of the appointment of an official. The different parties would plead, they would have speeches written for them by orators; the councillors would sit and listen. There would be a difference from a jury court, because the council would consult together, but the work which they had to do would be of the same kind.

It will appear then that there would be constant opportunities for any orator, who wished to do so, to bring any proposal which fell within its province before the council, to address it himself, to use his eloquence and his influence in the task of persuading the members, and to report to them his view of any matter. He would be able to guide their decisions. We have, in fact, in our records continual reference to the presence of men and orators before the council at a time when they were not members of it¹. The council often sat as a court of justice, and

¹ Lysias XIII. 21, XXII. Andoc. de myst. 154; de redivu, 21.

then an orator could accuse an enemy before it as before any other court; when, on the other hand, it sat as an administrative body, it would be subject to just the same kind of terrorism which a popular orator could bring to bear on any other magistrates; he would bully them¹, and make them do what he wanted without, being a member, just as much as he would any other board.

Moreover, the other magistrates, though not members of the council, were in constant communication with it. This was especially the case with the generals. All communications to the Assembly had to be made first to the Prytanies, and the Prytanies would constantly apply to the generals and other magistrates for advice and information; so that in this way the council chamber was the centre of all public life, it was the connecting link between all branches of the public service. Not only was nearly every citizen in turn a member of it, but each year all the public officials and innumerable other citizens were brought by business affairs into close connection with it.

Exceptional offices.

If however we would properly understand how it was that the Athenians could afford to dispense with "ability" in the council, there is another set of institutions which we must take into account; the exceptional offices. These opened to any able or pushing men an opportunity for action. A man who was without military ability and had not been chosen

¹ Ar. Equites, 166 βουλὴν πατήσεις καὶ στρατηγούς κλασάσεις. Here the προστάτης τοῦ δήμου is spoken of as being without any connection with either council or generals.

for any civil duty by the lot, was not thereby deprived of all means of showing his usefulness in office. Suppose he had special knowledge of some public matters—that he took a strong interest in finance, or foreign politics, or the navy, or the improvement of the city. He could not use the regular offices as the sphere of his endeavours, but he could do better; he could have an office created for him. Again, if any branch of the state was in difficulties, or if particular attention was required for the proper working of some department, it was always possible to appoint a special commission to take the matter in hand, and to place on it those citizens who had most knowledge and ability. So, when the financial difficulties became pressing, *ζητηταί* or *πορισται* were appointed to devise new sources of income; foreign affairs were entrusted to ambassadors; were there temples to be built or fortifications to be repaired, a special board of *ἐπιστάται* or *τειχοποιοί* was appointed. When Demosthenes was at the height of his power he had no regular office, but was one of a commission of *τειχοποιοί*, because the defence of the state was a matter with which he was peculiarly concerned. In B.C. 346 Æschines was made special ambassador to the Peloponnesian states in order to try and negotiate an alliance against Philip. The building of the Parthenon and Erechtheion, the rebuilding of the long walls in B.C. 395 were entrusted to commissions of this kind. The *συγγραφεῖς*, who were appointed to superintend the drawing up of a new code of laws, the *συνήγοροι*, who represented the state in public trials, the *ἀποστολεῖς* who superintended the fitting out of

an expedition,—all these are instances of such exceptional offices¹.

And these were an essential part of the system; they supplied just what was wanted in the council and the ordinary boards; they enabled the Assembly to appoint men of special ability whenever it seemed desirable; but, just because they were exceptional, they did not, as a rule, open the same dangers to the supremacy of the Assembly as would have resulted from regularly elected magistrates. At times indeed they did get so much power as to be a danger to the constitution. The most striking instance of this is the appointment of the *πρόβουλοι* in B.C. 413, with the special duty of advising the state as regards its whole policy; the circumstances made it desirable to have, what hitherto had been wanting, a council which had wisdom. The Thirty again were originally appointed as a small and exceptional commission in order to revise the laws.

In cases such as these the appointment of an exceptional commission changed the whole working of the constitution. Generally it was otherwise; these exceptional offices were simply a means of making the constitution rather more elastic.

*A seat in
the coun-
cil was of*

In this way it was that the council was able to do its work, although it was filled by the lot, and

¹ For these cf. *infra*, p. 103 etc. A good instance of the opening they gave to a determined person is contained in Demosthenes' speech against Androtion, 47. We are told how Androtion got himself appointed as an extraordinary officer to do work generally done by *κληρωταὶ ἀρχαί*. Cf. also 69, where we find that he was appointed on a special commission to look after the treasures of the Parthenon.

although it had not the advantage of the regular presence among its members of the leading men in the city. Indeed it will be evident that, after all, a seat in the council would be not only not indispensable to a statesman, but scarcely even desirable. A member of the council would indeed have great power; but it would be power like that exercised by a vestryman. He would be able to influence for good or bad the lives of many individuals; he could help a friend, or revenge himself on an enemy; he could even use his position to procure advantages for other cities, or to oppress them unjustly. He could perpetrate innumerable jobs. Power of this kind is always pleasant and desirable, and it was the advantage of the democratic constitution that it gave a share in it to all the citizens; but after all it was not essential to a great career; a politician who had made his name and won his reputation could scarcely add to his influence by a seat in the council. And the work must have been very laborious. The position must have been chiefly grateful to small people; to men who enjoyed the importance, the bustle, the dignity which attended the Prytanies. To men of wide ambition and high position it must have been burdensome.

The peculiar kind of duties performed by the council will also give a very good reason for the particular method of appointment. The council had a very wide power over the lives and fortunes of the citizens; it could interfere in their private life, it could act at times almost like an inquisition, it had every opportunity for exercising the greatest op-

*little use
to a
statesman.*

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council.*

pression over individuals. There is no doubt that at times it did act oppressively and unjustly. It could easily have become most dangerous to the public liberty; constituted as it was, the council was still in times of panic and distress the instrument by which the power of the state became the instrument of oppression. The accounts we have of the events which followed the mutilation of the *Hermes* show how real this danger was. It becomes still plainer when we are told that in times of depression it was the duty of the council to restore the finances by discovering people who were in debt to the state¹. What a possibility of wrong does this open!

That the injustice seldom reached any serious degree is probably due to the method of appointment; so long as the office was held for a year, so long as responsibility was strictly enforced, and so long as all classes were fairly represented in it, the results would not be very serious. Had the council been appointed otherwise than by lot the danger would have been much greater. As it was, the council was a *μικρόπολις*; it represented no class; therefore systematic oppression of one class by another, which is the most dangerous form of injustice, could not be very serious². Also the lot prevented organised oppression; so long as no efforts could

¹ Demosthenes, *Androtion*, 607, 47 etc. *Ar. Equites*, 474, 774—5. *Ach.* 378,

*εἰσελκύσας γάρ μ' εἰς τὸ βουλευτήριον
διέβαλλε καὶ ψευδῇ κατεγλώττιζέ μου.*

² There was of course always a tendency to act harshly towards rich people; but this was not stronger in the council than in the

ensure election, the members would not have the community of feeling necessary to successful wrongdoing. Lastly, it was of great importance that the members of the council were in no way members of an official class; a private man was not hampered in his relation to them by his own ignorance of public procedure, or their acquaintance with official forms; this knowledge was spread over the whole city, because every one was at some time an official, and so the worst kind of legal cruelty, which results when the forms of law are used to give to oppression the appearance of justice, was prevented. Injustice there was of course; but it was usually unorganised; a few criminals were left unexecuted, a few innocent men were punished, a few paid too heavy taxes, a few made a little money out of their public duties; but systematic oppression and organised fraud were impossible.

Assembly. All I wish to show is that the council had no opinion or motive of its own, different from that of the citizens as a body, which would make it an instrument of official oppression.

ADDITIONAL NOTE TO CHAPTER II.

On the date of the Introduction of the Lot¹.

It is remarkable that we have no information in any classical author as to the date and occasion of the introduction of the lot. The matter has in consequence become the subject of a controversy². Herodotus in his account of the battle of Marathon refers to Callimachus, who was Polemarch, as "selected by lot" to that office³; and Plutarch quotes a statement of Demetrius of Phaleron that Aristides when he was archon, just after the Persian wars, was "selected by lot from the families who had the greatest possessions⁴." It used therefore to be generally held that the use of the lot was older than the Persian wars. And the general opinion of the ancients that the lot was a democratic institution seemed to imply that it was introduced by someone who wished to develop the democracy. Thus, as the reforms of Cleisthenes are recognised as the most important epoch in the growth of the democracy, it was the obvious conclusion to attribute the introduction of the lot to him, or at least to regard it as a result of the movement which he began.

¹ [In the Appendix will be found a discussion of the additional information supplied by the discovery of the *Πολιτεία τῶν Ἀθηναίων* of Aristotle.]

² A full history of the controversy is given by Lugebil in the *Jahrbuch für Classische Philologie*, Suppl. Bd. v.

³ Her. vi. 109.

⁴ Plut. Arist. v. *κνᾶμφ λαχὼν ἐκ τῶν γενῶν τὰ μέγιστα τιμήματα κεκτημένων.*

Grote and other historians have, however, pointed out that this theory is not without difficulties. For it is argued first, that if the archons were appointed by lot at a time when only the richer citizens were eligible, the people would lose the power even of electing their rulers; and thus the introduction of the lot, far from being a democratic measure, would be one of the strongest defences of the aristocracy¹. We must therefore believe that the lot was not applied to the appointment of the archons till the office had been thrown open to all by Aristides. Further, it is argued in support of this view that the history of the Persian wars is not consistent with the belief that the chief magistrates were appointed by lot. For the two leading men in the state, Themistocles and Aristides, were both archons just at the time of a great crisis; this, it is urged, cannot have been the result of chance; they must have been elected². The statement of Herodotus about Callimachus must be then simply a mistake; he has applied to a previous generation a custom which prevailed when he was writing. As to Aristides the tradition as a matter of fact was doubtful even in ancient times. For Plutarch quotes also a passage from Idomeneus to the effect that Aristides was not chosen by lot, but by popular election³. The lot then was introduced sometime after the year 477, and it was

¹ It is a parody of this argument when Müller-Strübing maintains that the lot was therefore introduced as a means of tempering the democracy.

² Lugebil adds Xanthippus, the father of Pericles and Callimachos. The latter we are asked to believe was elected because of his fortunate name. I show below that the "coincidence" does not really exist.

³ Plut. Arist. i. καὶ μὴν ἄρξαι γε τὸν Ἀριστείδην ὁ Ἰδομενεὺς οὐ κναμεντόν, ἀλλ' ἐλομένων Ἀθηναίων φησίν.

one of the steps by which the democratic party did away with the power of the archonship and the Areopagus, and were able to develop the influence of the popular jury courts.

*Difficulties
in this.*

In a matter of this kind it seems however as though we ought not to refuse to accept the distinct assertion of our two best authorities without very strong reasons. The evidence of Idomeneus is of no weight in the matter, because Plutarch certainly understood him to mean that a special exception was made in favour of Aristides; the evidence of the popular enthusiasm was that the ordinary rule of election by lot was set aside in his case. Of the other considerations on which Grote and those who follow him rely, the first will, I think, lose its force, if we remember that, when the Greek authors speak of the lot as democratic, they are always referring to the system as it existed at Athens after about 450 B.C. They were acquainted with the lot as an essential part of the complete democratic constitution, and this is what is in their minds. The use of the lot was so much more conspicuous at Athens than elsewhere, that, when men talked of the lot, they meant the lot as used at Athens. But they never assert that the lot could not exist in some form in a state which is not democratic; in fact we are especially told that it was found in some aristocracies¹. What made the lot at Athens democratic was that all citizens were eligible, and that the number of offices to be filled was very large. It is

¹ Cf. Schömann, *Alt.* p. 154. "In manchen Staaten aber und zwar wie ausdrücklich bezeugt wird (Anax. Rhetor. ad Alex. c. 2, p. 14), auch in Oligarchien wurde statt der Wahl das Loos angewandt. Ja, es ist nicht unwahrscheinlich, dass gerade in den älteren Zeiten diese Besetzungsart am meisten beliebt gewesen sei, und zwar eben in den Oligarchien."

absurd to discuss a political institution apart from its surroundings as if it were an abstract expression. Nor is there anything in the fact that what I may call the extended use of the lot was one of the foundations of the democracy, to prevent us believing that the lot itself existed at an earlier period in the old aristocracy. (2) And the other argument is equally unconvincing, for the simple reason that we know so little about the matter. Of course if the archon had been really at that time chosen by lot from all the pentecosiomedimnoi and not from a few candidates, it would have been remarkable that Themistocles was successful; but we have no reason to suppose that this was the case¹.

There is then every reason to believe that the lot was part of the formalities by which the archons were chosen before the Persian wars. Have we any reason for fixing the introduction of it as late as the time of Cleisthenes? *Was the lot older than Cleisthenes?* The chief reason for doing so is the recognition of the fact that the lot was democratic; but if we remember that what was democratic was not the selection of nine men among the aristocracy to hold the archonships, but the selection of hundreds—almost thousands of men from all classes, to fill the council and also other offices, this argument will fail to convince us that the lot could not have been used before. And there are reasons of some strength for believing that it was used. It was the merit of Fustel de Coulanges² to be the first to point out that, as the lot was religious in its origin, it must have been in some form or other a custom of very great antiquity. Also he appealed to some rather

¹ Cf. *infra*, pp. 83—4.

² *La Cité antique*, p. 213. *Nouvelle Revue Historique de Droit*, ii. 1878. Cf. for a criticism of this view *Revue de Philologie*, 1880, pp. 52 etc.

vague language of Plutarch¹ and Pausanias² as proof that the Greeks knew that the archons had from the earliest times been chosen by lot. His view has not met with favour; and it is in our present state of knowledge difficult to see how it can be reconciled with the statements of the fact that Solon gave to the people the power of choosing their rulers³. Apart from this it seems as though his explanation were that which gives the most satisfactory solution of the difficulty. We know that in Greece where there was hereditary kingship, as at Sparta, the order of succession was not accurately predetermined; disputed successions often occurred, and to settle them the advice of the gods was generally taken⁴. We are certainly justified in assuming that if ever there were hereditary rulers at Athens, similar disputes took place, and that both sides appealed to oracles, omens, or the lot for a decision. The rulers were afterwards taken from a limited number of families instead of from one, they became a college of nine, and they held office for a limited period; but we cannot imagine that at first the procedure at elections was clearly determined. Disputed elections would often occur, and the lot would be naturally appealed to as one among other ways by which the dispute could be settled⁵.

Moreover the analogy of other states makes it probable that the archons had themselves the right if not of appointing, at least of nominating their successors; and,

¹ Plut. Pericles, 9.

² Pausanias, iv. 5; cf. also Dem. in Lept. 90.

³ Ar. polit. ii. 12, 1273^b, 4.

⁴ This is worked out by Lugebil, l. c.

⁵ I have stated the argument in my own words; it differs to some extent from the way in which Fustel de Coulanges expresses it.

in later times, as we know, it was the Thesmothetae who drew the lots among the candidates. And though we have no express information it is easy to see how some combination of nomination and the lot could grow up, if the magistrates who had the right of nomination were also the men who in case of a dispute would have to refer the matter to the gods; whether it was that the lot was drawn among the candidates nominated by the different Thesmothetae, or whether the Thesmothetae decided whom they should nominate by drawing lots among possible candidates. For, however it was arranged, the candidates must have been limited in number.

Let us take any period, say in the 7th century, when there were undoubtedly nine annual archons, who were chosen from among the Eupatrids alone. I do not know that we have any means of telling how large this class was, but all our records point to the fact that they were only a small portion of the population existing at that time. But if it be remembered that the number of male citizens of full age in Athens at the time of Pericles was according to one account only 14,000, and certainly not more than 30,000, I think I may safely assume that in early times the number of male Eupatrids above the age of 17 was considerably less than 1000, not probably more than 200 or 300. But if this was the case, and if from these the nine archons had every year to be elected, it will result that, unless re-election was common, nearly every Eupatrid would in his turn be archon. The members of great families would each one after another as he came of full age hold office for a year. To each in rotation would come his year for the archonship; and in a small body such as I am imagining the rules which determined at what age, or under

what circumstances it was proper for each to have his archonship would be carefully handed down by tradition, and strictly enforced by the spirit of the order. Those who were in touch with the feeling of the leading men would know quite well who was marked out each year as the next person on the roll. Therefore we may imagine that each year the number of candidates would be very little, if at all greater than the number of offices to be filled; and a candidate who was passed over one year would only have to wait till the next, when he would be able to come forward with a double claim to be elected. And we can well understand how the decision might in such cases be best left to the lot; the question to be decided was not one of *ability* nor of *party*, but simply of *precedence*; of two candidates the doubt was not which ought to be archon and which not, but which ought to be archon this year and which next year, and, perhaps, which of the different archonships should be held by each candidate. Thus it would be that a custom which had originated as a rude way of settling the claims of rival competitors for kingly power, would continue as a convenient method of settling the order in which the nobles should hold the one great office in the state. When the qualification for election was made one of property and not of birth, the custom would still be useful, for so long as property was measured in land there would be few of the first class who were not of Eupatrid family, while the practical supremacy of the nobles would doubtless render it almost impossible for such an interloper to be a candidate.

This is no more than an hypothesis; I cannot offer any proof of it; but it is interesting to make an hypothesis, which at least does not oblige us to contradict

our best authorities. If we adopt it, the difficulties about Themistocles and Aristides are not so great as they appear. Both were members of Eupatrid families; both would, as a matter of course, succeed in proper course to the archonship; and that Themistocles was archon in one year between the battles of Marathon and Salamis is no great coincidence; had he been archon in 492, or 491, or in any year to 477, it would have been possible to comment upon the remarkable fact that the most able man in the state was chosen just in this year—with no less plausibility than we can now. In whatever year Themistocles had been archon he would doubtless have made his tenure of office remarkable. At any rate, knowing as little as we do of the institutions we are discussing, it hardly seems as though we were justified in using an *a priori* argument to put aside the express statement of Herodotus.

The conclusion I come to then is, that in some form or other the lot had always been used in the selection of the archons, though the method of application doubtless varied. When Aristides had thrown open the archonship to all citizens and either he, Cleisthenes, or Pericles, had done away with the restrictions upon nominations, the result was that, though the archons were still *κναμεντοί*, the process had nevertheless completely changed its character. The institution on which the power of the nobles depended was broken down.

It is always more probable that a use like the lot was the growth or relic of some old custom than that it was suddenly introduced. But this applies only to the archonship. The historical difference between it and the other offices is enormous. It was old. They were new. Men were chosen to be archons by lot, because

that had always been the custom ; for the council¹, for the Apodectai, for the Logistai, for all the other offices, the lot must have been deliberately introduced for political purposes. Whether this was done when these offices were themselves created we do not know ; we do not even know when they were created ; though it cannot well have been before Cleisthenes, nor after 450 B.C.² It is in its application to all these offices that the essentially democratic nature of the lot consists, much more even than in its later use for the archonship. It is a neglect of this truth which has made Fustel de Coulanges overestimate the continued importance of the religious associations³ ; and a similar omission to recognise the essential differences between the two has made Grote and others, who have rightly estimated the political use in later times, ignore the truth that it could have had a quite different value when applied only to the archonship. The discussion on the whole matter is instructive because it shows how easy it is to go wrong by "abstraction," and to look on a custom like "election by lot" as though it had an absolute value,

¹ Fustel de Coulanges suggests that the Prytanies were elected by lot because their duties were originally religious (p. 390). This is very improbable.

² The earliest mention of the lot for the council is in an inscription of about 450, which, though it applies to Erythrae, is evidence for the use of the lot at Athens then.

It is still possible that the discovery of some early inscription will give us certain knowledge on the matter.

³ After showing rightly enough that the lot was originally religious and must have existed before the democracy, he goes on to say that it never was democratic. "Il n'était pas d'ailleurs un procédé démocratique," l. c., n. 1. Even if, as he and Curtius suggest, the institution of the generals by Cleisthenes was a democratic measure, that does not in the least affect the point that the lot as afterwards used was still more democratic.

which would be the same at all times and in all circumstances¹.

¹ It does not seem possible to discover with any certainty when election by lot was abandoned.

Bergk, *N. Rhein. Museum*, xix. 605, refers to an inscription published in the *Ephemeris Archæologiea*, 3793, which contains a list of archons. This is of the time of Mithradates, and in it one man *Μηδελος* is mentioned as holding the office three years running. This shows that by this time the constitution had been modified, and the archonship was now filled by election from among the richer citizens. The change is generally supposed to have taken place in 146. (Cf. Hertzfeld '*Griechenland unter den Römern*,' 310. *C. I. A.* iii. 87.) For a minor office we find it existing after this. (Cf. *C. I. A.* iii. 81. Wachsmuth, *die Stadt Athen*, i. 651.)

I should however expect to find that the alteration was made before this. Whatever the forms may have been, it is impossible that the reality of the democratic constitution can have been maintained so long as this. It is disappointing that nothing is said about the matter in the accounts of the change of constitution in 322 B.C. Cf. Droysen, *Hellenismus*, ii. 80—81; Diod. xviii. 65.

CHAPTER III.

THE OFFICIALS.

WE must now turn from the council to a consideration of the other offices to which men were appointed by lot; and in regard to these also, if we would understand the lot, we must consider it in connection with the other parts of the constitution to which it belonged. The lot might be used in other states with other results: at Athens, of which we alone have knowledge, it was only one (though an essential) part of the democratic system. It helped to secure perfect equality among all citizens, a regular rotation in office, and the undisputed authority of the assembly.

*Rotation
in Office.*

The system is really the extension of an oligarchic principle to the whole body of citizens. In a strictly oligarchic state the council is supreme, not the assembly; but the council is chosen only from the members of certain families, and all magisterial appointments and all administrative posts of influence are reserved for members of the oligarchic clique. But in such a state, though a seat in the council is for life, the tenure of all other offices is short, and every member of the ruling order has a right to succeed to office in his turn. By this means

the supremacy of the council over all offices is secured as well as equality among those who are eligible. The lot might have been used to secure this end, just as it was used at Athens; probably indeed it was in operation in some states. However this may be, the principle of rotation in office was not peculiar to Athens, nor was it essentially democratic. Aristotle especially recommends it for his *πολιτεία*, and he makes it an objection to the state proposed in the Republic of Plato that there the same men will always hold office. He maintains repeatedly that within the select circle of the governing class in any state it is undesirable to make distinctions, and that all "peers" ought to have a share in office¹. What was done at Athens was to apply the principle which is found in every oligarchy to a much larger class. There were to be no half-citizens; a man if he was a citizen at all was to have his share in the pleasures and responsibilities of magisterial authority. Here, as in an oligarchy, the Senate consisted of past or future magistrates: but the past and future magistrates included all the citizens. The garland of office came to an Athenian by right of birth, just as did the fasces to a Metellus, or his uniform to a Hohenzollern².

¹ Ar. polit. ii. 2, 1261. Aristotle maintains that, where it is impossible for the best men always to remain in office, whether office be good or bad, it is right that all should take part in it.

Cf. ii. 5, 1264^b. And again viii. 8, 1308^a he specially recommends that in a *πολιτεία* the offices should all be made of short duration, so that all qualified persons may be admitted.

Cf. also vii. 2, 1317^b.

² At Rome the principle was practically maintained that all

*Character-
istics of
Oligarchy
and
Demo-
cracy.*

There are however important differences between the working of the principle of rotation in an Oligarchy and a Democracy, since in an oligarchy the officers are few in number, and their duties are in consequence complicated. Accumulation of offices is common; and re-election is practised, if the offices are not held for some considerable period. This is necessary, since the men from whom officials are chosen are few in number. Further, though public responsibility is recognised, and an account can be demanded of the conduct of each official, yet this is generally of but little avail. Account is to be rendered to the same body from whom the magistrates are chosen; the individual is protected by the order to which he belongs, because the interests of all are identical. Each member of the order feels an attack on one of his fellows as a possible curtailment of his own privileges, and the supremacy of the order is endangered when the right of popular criticism is allowed.

At Athens the offices were numerous; all offices were collegiate, and the colleagues were seldom less than ten in number; re-election was almost unknown¹; accumulation of office rare; office was

members of the senatorial families should succeed in turn to the great offices. Had Rome been governed by a pure oligarchy this could have been done by the lot; as it was, this result was practically secured notwithstanding the nominal existence of popular election.

¹ As we have seen, re-election to the βουλὴ was possible if not common. For other offices however the matter was different. So far as I am aware, there is no definite statement on the matter in any contemporary authority: but

almost without exception annual¹. By this means office was opened to the greatest possible number of men: and as a result the work of the office could be greatly simplified, and the duties strictly defined by law. As a result of this, one of the characteristics of the Democracy was a careful organisation and a consequent high standard of administrative efficiency, and this was accompanied by a greater freedom from fraud or dishonesty than was possible in an oli-

(A) It is impossible to find a single case occurring of re-election to any office which was filled by the lot. We know the names of a large number of officials, especially *ταμίαι*, *έλληνοταμίαι* and *έπιμεληταί*, and among them we never find one man twice holding the same office.

(B) In one of the *προοίμια δημηγορικά*, printed in Demosthenes' works, we find the statement *παντάπασι τὸν αὐτὸν τρόπον, ὃ ἄνδρες Ἀθηναῖοι ὄνπερ τοὺς ἱερεῖς, οὕτω καθίστατε καὶ τοὺς ἄρχοντας*. *δεινοτατοί γάρ ἐστ' ἀφελέσθαι μὲν ὅς' ὑμῖν ὑπάρχει, καὶ νόμους περὶ τούτων θείναι, ἂν τις ἀστυνομήσῃ δις ἢ τὰ τοιαῦτα, στρατηγεῖν δ' αἰεὶ τοὺς αὐτοὺς ἔαν*. Also in one of the documents inserted in the speeches of Demosthenes we find a similar statement:—*οὐδὲ δις τὴν αὐτὴν ἀρχὴν τὸν αὐτὸν ἄνδρα (καταστήσω)*,—a clause in the oath of the *Heliasts*. Dem. in *Timocraten*, 149.

These passages though of late origin were probably written by men who could easily find out the truth on this point, and, as they are supported by evidence from our lists, we are justified by them in stating that re-election was absolutely forbidden.

Aristotle *polit.* vii. 2, 1317^b, tells us that in a democracy re-election will not be allowed: *τὸ μὴ δις τὸν αὐτὸν ἄρχειν μηδεμίαν ἢ ὀλιγάκις ἢ ὀλίγας ἔξω τῶν κατὰ πόλεμον*.

¹ Aristotle specially recommends that office be not held for any long period:—

polit. vii. 2, 1317^b *τὸ ὀλιγοχρονίους τὰς ἀρχὰς ἢ πάσας ἢ ὅσας ἐνδέχεται*, and viii. 8, 1308^a *οὐ γὰρ ὁμοίως ῥάδιον κακουργῆσαι ὀλίγον χρόνον ἄρχοντας καὶ πολύν*.

Revolutions, he adds, come from long tenure of office.

garchy¹; and the publicity which was secured to all public action enabled the state to enforce in the most stringent manner an enquiry into the whole conduct of its magistrates: each official had to submit to a general criticism of his conduct, and in particular to a detailed examination of all his expenditure.

In some states a magistrate has power direct and underived; in others he gains influence as the member of a ruling class whose interest it is to protect and support each individual. In Athens the magistrate was unprotected; he was surrounded by no veil of mystery; he was simply the man chosen from the people to do certain things. Whilst his commission lasted he was backed by all the authority which he derived from the people; the moment it was over he became again an ordinary citizen, with nothing to protect him but his integrity or ability. The Athenians are the only people where the magistrates always remained the servants of the state.

*Con-
venience
of the Lot.*

It will I think be evident how natural and convenient an arrangement the lot was, as a means of attaining these ends. Let us try to imagine the Athenian democracy without the lot. Here is a state of between 20,000 and 30,000 citizens; there are hundreds of offices to be filled every year. These offices are all annual; no two may be held at the same time, and to most of them re-election is forbidden. If we remember too that the richer citizens were constantly occupied with onerous public services, and that the poorer were constantly required to serve

¹ On the morality of public officials at Athens cf. *infra*, p. 174.

in the army, we shall find that the scope for choice among those willing to serve cannot have been very large. If the system was to be kept up, the services of every one would be wanted; it would have been absurd and futile to try and pick out men for their ability or character. For the question which had always to be decided was not "Shall this man be a magistrate, or not?" but "Shall he be a magistrate this year, or next," or "Shall he have this office, or some other?" and as this was a matter of extremely little importance, it showed good practical common sense on the part of the Athenians that they answered it in the easiest and most direct manner by casting lots.

There is one important difference between the council and the other offices. In the council men of all ranks and classes sat together; in the other offices a certain distinction of rank was maintained. *Different classes of magistrates.* Some offices, as the archonship, entailed a considerable expenditure, and moreover the preliminary examination was very strict; we may therefore reasonably believe that the candidates for it were drawn almost entirely from the well-to-do old-established families. For some offices, as that of treasurer to the goddess and Hellenotamias, no one could be chosen except members of the first class; the duties being of such a kind that they could not be safely entrusted to anyone who had not a considerable property, which would be a pledge to the city for his honesty¹. The duties to be performed by other officials were both disagreeable and laborious;

[¹ See Appendix. This law it appears was not really observed.]

it is probable that they were paid for undertaking them, and we may therefore reasonably suppose that men of birth and position would willingly give up these to others who were glad to get the money and did not find the work repulsive. The eleven, the *agoranomoi*, the *astunomoi*, may probably be counted among these inferior offices. Of course in a perfect democracy there would have been no distinctions of this kind; but the Athenians did not allow respect for a word or an idea to lead them beyond what was practicable and prudent.

The use of the lot is then explained as being the simplest method of attaining the desired end, that all citizens should take their turn in office. The people deliberately did not exercise the right of selection. To do so would have been to interfere with the principle of rotation.

*Was office
compul-
sory?*

It might be objected that the complete establishment of this principle would require that men should be compelled to serve whether they applied or not. Whether this was the case, or not, we cannot tell: our information as to the proceedings is unfortunately so small that we do not know what the method of nomination was. However, though we have no proof of the matter, it would, I imagine, hardly be too rash to assert that the state did reserve to itself the right of compelling men to hold office, and that the retiring magistrates or others who directed the election could, if necessary, nominate without their consent the candidates among whom the lots should be drawn. If this was not commonly done, it was because there was no re-

luctance to take office, and no deficiency in the number of voluntary candidates. We may still discover that for some of the more arduous and less profitable offices it was the regular procedure. In the absence of all information, it seems just as probable that the inspectors of the dockyards were selected by the lot from among a certain number of men nominated according to some recognised rule by the *ἐπιμεληταὶ τῆς φυλῆς*, as from candidates who were nominated at their own request.

We do, in fact, once find the office of treasurer to the goddess spoken of as a *λητουργία*¹; and the principle of compulsory service was so clearly recognised that there would be no scruples about applying it if necessary. Office among the Athenians was a position of such danger that we may be surprised that we do not hear more directly of compulsion. If it was found necessary, it would however be only for the higher offices, which required a large outlay of money and were not paid, and in which also any real or fancied neglect of duty was most severely punished². We have evidence on the other hand that many of the offices were much coveted; chiefly, apparently, because of the gain they brought.

It is necessary, if we would understand the

¹ Andocides, de mysteriis, 132, ἀλλὰ τοῦναντίον λητουργεῖν οὗτοι προυβάλλοντο, πρῶτον μὲν γυμνασίαρχον Ἡφαιστείαις, ἔπειτα ἀρχιθεωρὸν εἰς Ἴσθμὸν καὶ Ὀλυμπιάζε, εἴτα δὲ ταμίαν ἐν πόλει τῶν ἱερῶν χρημάτων.

² Antiphon, de morte Herodis, 69, tells a story of how one year all the Hellenotamiai but one were put to death on a charge of peculation; and how afterwards it was discovered that they were innocent.

Athenian system, to get rid entirely of the natural prejudice we feel against the lot. This prejudice is so strong that we are always inclined to think the Athenians must have shared our distrust of it; and attempts have often been made to show that this was the case. Historians have appealed to two facts to prove this:—to the institution of the *δοκιμασία*, and to the fact that a large number of officials were appointed by popular election, and not by the lot. I think, however, that a short examination of these two points will help to prove my position, (1) that the Athenians felt no distrust of the lot, but regarded it as the most natural and the simplest way of appointment; (2) that, in consequence, the general rule was that all magistrates were appointed by the lot: the only exceptions (in the first period of the democracy) being those who had military or semi-military duties, and those who held exceptional appointments which were outside the ordinary routine administration of the state.

The Dokimasia.

The popular account of the *δοκιμασία* is that it was an institution invented to check the worst results of the lot¹: men, we are told, felt so much distrust of its working that they prepared a means of interfering with its action. It was an opportunity given to the people to prevent someone, who had been legally appointed, from holding office, on no other grounds than that they held him unfit to do so. This

¹ Busolt, Gr. Gesch. vol. ii. p. 469. Gegen die schlimmsten Zufälligkeiten des Looses schützte man sich durch die Prüfung oder Dokimasie. Gilbert, St. i. 208—10, takes the same view though less decidedly.

view is founded on the statements of the orators: and there is no doubt that, in the 4th century, the *δοκιμασία* was used as a means of preventing men who were suspected of oligarchic sentiments from holding an office which they had won by the lot or otherwise¹. It is, as I have elsewhere pointed out, from the observation of this fact that a great deal of the difficulty about the lot has arisen. If however my view of the lot is correct, it will be necessary to some extent to restate our account of this phenomenon. It was, I believe, an abuse which had grown up at the end of the Peloponnesian war, and was a direct result of the shock given to the whole state by the two oligarchic revolutions. If we look below the speeches of the orators to the constitution of the court, it is obvious that the *δοκιμασία* was not introduced simply to rectify the verdict of the lot: men chosen by popular elections were just as much subject to it. It was not the intention to allow the popular voice a veto on any appointment by means of an accusation of "incivism." The object of the *δοκιμασία* was simply to keep out of office men who were legally incapacitated. Men who were not complete citizens by birth, who were not of a certain age, who were in debt to the state or who had incurred *ἀτιμία* by committing certain offences, were by the laws excluded from office;

¹ Cf. Lysias, Or. 26. 16 *passim*; esp. 26, § 9, ὁ θεὸς τὸν περὶ τῶν δοκιμασιῶν νόμον οὐχ ἥκιστα περὶ τῶν ἐν ὀλιγαρχίᾳ ἀρξάντων ἔνεκα ἐθηκεν. This cannot be true unless the *δοκιμασία* was a quite new institution: but if it was we should expect some more special reference to its introduction.

and some offices could only be held by men possessed of a certain property. Now it was one of the characteristics of the Athenian constitution that it provided a definite regular way of doing everything however unimportant: nothing was left uncertain. Supposing anyone were chosen by lot or by popular election whose qualification was doubtful, considerable inconvenience might arise if there were no regular procedure for dealing with the matter. To guard against this, the *δοκιμασία* was introduced. The proceedings were as a rule almost formal: they consisted in putting to the newly elected magistrate certain questions; if they were satisfactorily answered the matter was at an end: if it appeared that the man did not possess some of the qualifications he was excluded. The *δοκιμασία* answered the same sort of purpose as when a candidate for a scholarship at a school or university is required to produce a certificate of birth. It was the opportunity which the official had of proving his legal qualifications: an opportunity which there must be somehow in every state; and it is chiefly interesting as showing the great care taken by the builders of the constitution to procure efficiency by providing beforehand a means of settling all points¹:

¹ The best account of the matter is given by Hermann, *Staatsalterthümer*, 149. Schömann's account is also good: he says, "the *δοκιμασία* had nothing to do with the knowledge and ability requisite for the administration of the office, but only with the question whether the birth of the man fulfilled the conditions required, and whether his life had been free from crime. Those offices for which a special capacity was necessary which could not be expected of every citizen were filled by popular

It was however possible that the candidate was not satisfied with the justice or validity of the verdict of the revising court; this would especially be the case when, as often happened, private or political enemies had by their evidence procured his rejection. In a case of this kind there would be a dispute either of fact or law to be decided¹: a dispute which might turn on the status of the mother of the candidate, or on the interpretation of some law disqualifying a particular class of persons. This dispute would have to be decided before a law-court, but the question would still be not, "Is it *wise* to let this man be elected?" but, "Is this man legally disqualified?"

The orators of course in these as in all other cases tried to bias the minds of the jury, and where it was convenient to do so did not shrink from boldly stating that the *δοκιμασία* ought to take the form of an enquiry into the whole career of a citizen to

election, and it was assumed that the people would not choose anyone of whose capacity it was not sufficiently convinced. On the other hand the people willingly had confidence that everyone who decided to become a candidate for any of the other offices which were filled by lot, would have the requisite capacity, and in fact was not so far wrong in this as may appear at first sight." This is one of the cases where it seems to me that the new school of historians have not improved on their predecessors.

¹ So in Lysias, Or. 26, de Evandro. The real case is that Evander has committed certain acts which disqualify for office: the defence is that he is defended by the amnesty (§ 16): the speaker tries to create a prejudice against Evander and to make the case turn on what is best for the city; and so far as he can makes it seem a question of the personal character of himself and his opponents.

see if he were fit to bear office¹; but this was just as much an abuse as when in any ordinary civil suit they introduced extraneous matter in order to influence the minds of the jury. No doubt they often succeeded. Many men, probably, were excluded from office on account of their oligarchic opinions, but this was a development caused by peculiar circumstances. Owing to the political struggles of the time a considerable number of men had become *ἄτιμοι* and disqualified for office: so far as the *δοκιμασία* excluded them it was not (except in cases where it was abused) an original expression of popular feeling, it was only the method of putting into execution a principle already established². We might find the nearest English parallel to it in the laws respecting the Roman Catholics. When they were disqualified by their religion from being elected or appointed to any post, the law was enforced by requiring every person who was elected or appointed to take the Sacrament. This was the *δοκιμασία*. By taking the Sacrament a man declared that he was not a Roman Catholic. At the same time it was open to anyone to give information that the man was really a secret Romanist, and thereby still get him excluded. Now no one would say that the ex-

¹ e. g. Lysias, pro Mantitheo, 9, *δοκεῖ δέ μοι ἐν ταῖς δοκιμασίαις δίκαιον εἶναι παντὸς τοῦ βίου λόγον διδόναι*.

² So in Lysias, Or. 26, § 10, the argument seems to be:—a man who served as knight under the Thirty may not be a *βουλευτής*, much more must a man who has done what this man has done be ineligible for the archonship: the speaker appeals to the law and says any reasonable interpretation of it will exclude him.

istence of this and similar laws implied distrust of popular elections, or of appointment by government. But it is just what happened at Athens: only at Athens no one was excluded because of his opinions, only because he had committed certain actions.

The inconveniences which may result from any uncertainty as to the legal qualifications of a man who has been appointed to a public office are so great that no further explanation is required why the Athenians should have taken care that the validity of the appointment should be thoroughly tested before the new officer entered upon his duties. Such a test there must always be. The only peculiarity of the Athenian system was that the name of the procedure, and (to a great extent) the procedure itself, was identical for all offices and all appointments. We disguise the similarity under difference of name; we talk of the registration of voters, the confirmation of bishops, election petitions; but these are all only more cumbrous methods of doing what the Athenians did simply and in the same way for all offices by the *δοκιμασία*.

The fact that the Athenian courts did not always give an impartial verdict, and in fact did not even profess to do so, was a result of the whole constitution of the judicial system; but it need not affect our judgment of the initial advantages of having some such procedure. At any rate the Athenian dicasteria were not more open in their disregard of the legal aspect of a case than was the House of Commons in

the days when it used to hear election petitions¹.

*Elected
Officials.*

If we turn now to the second point, the consideration of those offices which were not filled by lot, we shall not I think find any reason to suppose that the Athenians looked on the lot with distrust, or regarded it as anything exceptional.

*Military
posts.*

There are always certain things which can only be done by men of special ability; there must be cases in which the dangers which arise from possible incompetence are greater than any which come from the possibility that the magistrate will gain undue influence or misuse his power. This even the Athenians recognised; election by lot was with them the rule, but they never attempted to make it a rule without an exception. The exceptions were however as few as possible. Of the regular magistrates only those were elected who were occupied with the actual command of men in war, or in the half-military establishments connected with the public education of the citizens. Much has been said about the *στρατηγοί*: it has been truly

¹ A curious contrast to the simplicity of the Athenian constitution might be found in the difficulty experienced in England of getting an authoritative decision on the qualifications for voting in any representative body. The uncertainty about the right of women to sit in a county council could not have occurred there, because the matter would at once have been brought before a special court which had to decide all such cases: and it would have been impossible that such a state of things should result as has been seen in England, when someone continues to exercise an office to which he has no claim because it is no one's duty to take steps in order to deprive him of it.

pointed out that at one period their power was very great, and the office to some extent an object of ambition for those who wished to direct the politics of the city; but the board of the *στρατηγοί* were never other than generals¹. Their duties were always, primarily, the management of naval and military matters; secondarily, they at times represented the state in its intercourse with other states and had jurisdiction over foreigners residing in the city. Political power they sometimes had: but it was chiefly because they were men who had influence as speakers and statesmen in the assembly. They were men of ability, and their experience was valuable: hence they were consulted by the governing assemblies. They were, as generals, responsible for the safety of the state: hence any request which came from them, or any warning which they might give, was attended to at once. If they represented to the *πρυτάνεις* that there was business of urgent importance to be discussed, it was matter of tradition if not of law that the assembly should be summoned². They had the right of bringing all matters before the council, and with the council they were often chosen to represent the people in its intercourse with foreign powers; like all Athenian magistrates, even the lowest, they had extensive judicial duties, and they had as a necessary result of

¹ This is shown clearly by the references to them in the *Memorabilia* of Xenophon. Socrates always speaks of the power of commanding an army as the first requisite of a general. Cf. iii. 1, 6; iii. 4.

² C. I. A. i. 40, *ad finem*.

their military power a large authority in financial matters. But it was their military duties which were the foundation of their power; and it was because of them that their appointment was never made by the lot. I do not know anything so remarkable as the fact that, notwithstanding the exceptional position which they occupied, these generals never did win a position independent of the assembly. It is not the extent but the limit of their authority which astonishes us.

If we add to the generals the subordinate military officials, the ἱππαρχος and φύλαρχος and ταξίαρχος, and certain other men who, like the σωφρονισταί or ἐπιμεληταὶ τῶν ἐφήβων, superintended the education of the young men, we shall, with the doubtful exception of a few unimportant religious officials, find no regular officials who were not appointed by lot¹.

*Exceptional
Offices.*

In all other cases where we are told that a man was elected to an official position we find that the office itself was an exceptional institution. I have already to some extent explained the importance of these offices, and shown how useful they were in supplementing the more established procedure. The

¹ There are many offices concerning which our information is defective, e.g. the τριηροποιοὶ and the ἐλληνοταμίαι. The ἐκλογεῖς mentioned in C. I. A. i. 38 (cf. Harpocr. *sub voc.* ἡρέθησαν γὰρ ἐκλογεῖς παρ' ἡμῖν οἷς πλείστα ἐδόκει χρήματα εἶναι) were men chosen to collect arrears of tribute from the allies. They were exceptional officers and their duties were partly military, as they had command over one or more triremes. Cf. Boeckh, *Staats. d. A.* p. 190. The same is true of the τακταί, who were probably identical with οἱ ἐπὶ τὰς πόλεις whose election (χειροτονία) is mentioned C. I. A. i. 37.

most important of them are the numerous appointments for exceptional service as legate to a foreign power, or as representative of the state at some religious festival. If an embassy had to be sent to treat with a foreign king, if the help of Dionysius was sought against Thebes or the help of Thebes against Philip, or if it was desired to break up an alliance between Sparta and Persia, or to send a representative to the Amphiktyonic council, for this purpose men of ability and knowledge, leaders in the political world, must be chosen; and so the lot could not be used. Also those who were elected to these offices were temporarily surrounded with a pomp and importance which marked them out from their fellow citizens. These appointments had a dignity of their own, they were highly paid, they gave opportunities for gaining exceptional experience and knowledge, they gave to those who held them peculiar advantages of a kind which democracy sought to make common to all citizens. Hence we find that such offices were looked on with suspicion, and that their holders were the object of envy. They were oligarchical in their nature; not because they were filled with oligarchs, but because a state where such offices abounded would be oligarchic¹. But oligarchic as they were, they were not in the least party posts. Election to them was not conducted on party lines. There were private societies which would support those of their members who were candidates; but there was no organisation to support candidates of particular opinions. If

¹ Cf. the first scene in the *Acharnians*, also *ib.* vv. 595 etc.

an embassy was to be chosen, the people did not take trouble to choose ambassadors committed to one line of policy. They did not attempt to bind themselves to a particular line by electing men pledged to support it. They elected men who took interest in, or had knowledge of the question; but they elected men of the most opposite opinions¹. We see how in the case of offices to which election was by vote the influence of the lot extended; the same strictness of account, the same complete obedience to the Assembly, the same collegiateness, the same absence of party organisation is found in the one as in the other: but it was only because elected officials were the exception that elections were so quiet, so business-like, and elected officials so obedient.

Commissioners of public works.

Another class of men who were certainly in most cases appointed by the people were the "Commissioners of Public Works" (*ἐπιστάται τῶν δημοσίων ἔργων*) including the special boards appointed to superintend the building of fortifications and triremes². These, however, do not really form an exception to

¹ E.g. Xen. Hell. vi. 111 in the embassy to Sparta we find men of different parties, including those of the anti-Laconian party. So too in the famous embassy to Philip the leaders of the opposing parties both took part.

² Aesch. in Ctesiphontem, 9. 31. Demosthenes was appointed *τειχοποιός* by his own tribe Pandion. There is a distinction between *κληρωταὶ ἀρχαὶ* and *ἐπιστάται τῶν δημοσίων ἔργων*: and though Aeschines contends that these latter are *ἀρχαὶ*, he certainly implies that they were never *κληρωταὶ* (13—14, 28—30). C. I. A. ii. 830 *τειχοποιοὶ αἰρεθέντες*. Cf. Wachsmuth, Die Stadt Athen, vol. ii. p. 13, n. 1; *ib.* p. iv—v.

the rule, because, certainly in the greater number of cases of which we have record, these Commissioners are not members of a permanent bureau. The office is created for a special and exceptional purpose, and expires when the building or repairs with which it is concerned is completed. There is one commission for the building of the Propylæa¹; one for the building of the Erechtheum²; another for the restoration of a temple which had been destroyed by fire³. A board of *τειχοποιοί* is appointed to superintend the rebuilding of the walls in 395⁴; another, of which Demosthenes is a member, in 338⁵. These appointments no more belong to the ordinary constant system of the administration than do the posts of ambassador; or the special commissions of enquiry appointed at times of panic; or the *συνήγορεῖς* appointed to represent the state in public prosecutions. This is shown by other signs. The regular Athenian boards have almost invariably 10 members; the numbers of these commissions vary, we find sometimes two⁶, sometimes three⁷, at times five⁸, or

¹ C. I. A. i. 314.

² C. I. A. i. 322.

³ C. I. A. ii. 829.

⁴ C. I. A. ii. 830—32. Cf. Wachsmuth, *Die Stadt Athen*, ii. p. 5, and p. 13, n. 1.

⁵ Aeschines, l. c. We also find a commission of ten men to investigate the gifts given to the temple of Aesculapius (C. I. A. ii. 836), one for the restoration of the temple of Zeus Soter (C. I. A. ii. 834) and for the building of the Skeuothekē (C. I. A. ii. 1054), and one to superintend the making of two statues *ἐπιστάται τῶν Νίκων* (C. I. A. iv. 331^o and C. I. A. i. 318.)

⁶ C. I. A. ii. 187.

⁷ C. I. A. i. 318, 322.

⁸ C. I. A. ii. 834; C. I. A. iv. 331^o.

ten¹. The regular appointments are, nearly invariably, for a year; in some cases at least, these commissioners hold office for longer²; and it is probable that the appointment was generally made to continue till the work entrusted to them was finished³.

It is certain therefore that many of these commissions must be classed among the exceptional offices, and in consequence it is probable that their members were allowed more power and freedom than could have belonged to men appointed by lot, and that the direct responsibility for the plan and method of building rested with them; also, that the people entrusted to them the right of controlling the architect. Thus they would not only propose in the assembly the general plan of the building, but would be empowered to use their own discretion in the arrangement of details.

The actual charge of the work of course belonged to a professional architect; who was appointed sometimes, if not always, by the people⁴. The chief duties of the commissioners were to examine the plan prepared by him, to see that it would answer the purpose of the building required, to draw up a formal document and sign it. They also had to watch over the progress of the work, and, especially, all payments were made by them to the contractors and workmen. The sale of the

¹ Aesch. l. c. In C. I. A. ii. 1054 one only is mentioned as signing the contract, but he possibly acts on behalf of his colleagues.

² C. I. A. i. 301 (p. 160), 318.

³ This was not however always the case. C. I. A. i. 303—309.

⁴ C. I. A. ii. 187, v. 6.

contract seems to have belonged not to them but to the Poletai.

The question, however, suggests itself whether, besides these exceptional commissions appointed to conduct large and important building operations, there were not other and more permanent officials entrusted with the care and preservation of the fabric of the buildings and fortifications already made. I am not aware of any record of such officials, and it is more probable that, so far as this duty did not belong to the province of the priests, treasurers and generals, it was included in the general supervision over all public matters which belonged to the council. This seems to be borne out by the fragment of a decree¹, either of the council or assembly, which provides for building some additional wall on the Acropolis. In the portions preserved we find mention of the Poletai, and of a man who is apparently the architect, but none of any commissioners; and the probable explanation is that where only some small piece of work was to be done the matter was left to the discretion of the architect, and it was not held to be necessary to have a special committee appointed to control him. The payments could of course always be made by one of the regular boards of officials, and the contract as usual would be made by the Poletai. The *ἐπιστάται* were only appointed when a special work of some magnitude was to be taken in hand².

¹ Bulletin de Corr. Hell. 1890, p. 177. It seems to belong to the middle of the fifth century.

In another we find that the control over the architect is given to the *ιεροποιοί*. C. I. A. iv. 37^b, l. 10. ² [See Appendix.]

With these the exceptions end. There were no other duties which it did not seem to the Athenian statesman that any of his fellow citizens could perfectly well fulfil. For the two great departments of finance and justice, there were in the great days of the Athenian Democracy no elected officers. What taxes were to be raised; what money was to be spent; that the demos in its sovereign power decided. How much money was necessary for one department; how much could be afforded for another; that the council reported. But to raise money, and spend it; to collect taxes, and proceed against defaulters; to sell confiscated property, and let public land; to pay the bills, and audit the accounts;—for all this there were none but *κληρωταὶ ἀρχαί*.

Therefore we shall be justified in saying that neither the institution of the *δοκιμασία* nor the existence of these exceptional offices shows any distrust of the lot. This was the ordinary system of appointment, and was deliberately maintained as the wisest means of preserving the democratic constitution. But if we are prepared to recognise that election by lot was the rule and not the exception, we have still to enquire how it was that the state could exist and prosper with it, and what the results of the system were. I propose therefore to explain, so far as is possible, the manner in which the system worked, so that we may see what the effects of this peculiar arrangement were. I shall begin by discussing the financial administration.

CHAPTER IV.

FINANCE.

§ 1. *General Direction.*

IN a modern state the most important political event of the year is the budget. The chief duty of the Government is to estimate the expenses of the coming year, and to propose some method of raising sufficient money to meet the expenses. The question has often been asked how it happened that in antiquity, and especially in Athens, matters of finance had not the same importance¹.

The difference is however more in appearance than in fact. It arises to a great extent from the character of the records. Historians occupy themselves much more with the moral than the economic side of history. Writing with a view to artistic effect, they pass over matters of finance which are supposed to be dull. But the speeches of the orators, and the great mass of inscriptions which have been discovered, show conclusively—that we might have guessed—that, even in the fifth century, finance was almost as important a part of public business as it

¹ Boeckh, *Staatshaushaltung*, Bk. ii. § 1.

is now. Athens had no exemption in this matter. She was subject to the ordinary laws which govern the life of states. Then, as now, it was supply which occupied the minds of leaders of the state; for money meant food for the citizens, good pay for the fleet, new triremes, new fortifications. It meant comfort at home, and supremacy abroad. Then, as now, no leader of the state could keep his position without meeting the financial problem; and the administration of Pericles, of Cleon, of Aristophon, and of Eubulus was then, as it would be now, chiefly judged by their financial policy¹.

There is, however, a point in the constitution of Athens, resulting from the peculiar character of the relations between the officials and the assembly, which tends to obscure this fact.

*Absence of
a supreme
finance
official.*

The first question we naturally ask is:—"Who was the responsible financial adviser; whose duty was it to frame plans for providing money?" It is of the very elements of business that there should be some one whose special duty it is to survey the whole income and expenditure. Without this what would all the care and prudence in details avail?

But at Athens there is great difficulty in discovering with whom this responsibility lay. We can trace the course of a sum of money from one department to another. We can find out how payments were made, where money was kept, who paid it, and who spent it; but where was the central control? All taxes were indeed imposed by the

¹ Cf. Lysias, κατὰ Ἐπικράτους xxvii. 3, ὁπόταν ἐν χρήμασιν ᾗ καὶ σωθῆναι τὴν πόλιν καὶ μή.

assembly, and all expenses sanctioned by them. But who advised the assembly, and how did it learn exactly what money was wanted? There must surely have been someone who had a special knowledge of the matter, who could put forward an authoritative statement, and with whom the responsibility of mismanagement would rest.

In the latter half of the 4th century there was such an official: the *ταμίης τῆς κοινῆς προσόδου*, or *ὁ ἐπὶ τῇ διοικήσει*. *ταμίης τῆς κοινῆς προσόδου.* And it has been maintained that this office was in existence at least from the times of the Persian wars. Boeckh and others have supposed that it was held by Aristides and Pericles and Cleon; and that by holding it they gained their official position, and their right to speak with authority and advise the people. There seems however to be no good authority for the existence of this office before the middle of the 4th century, and it was probably introduced by Eubulus about 352¹.

It appears indeed, strange as it may seem, that during the 5th century there was no finance minister. There was no one who was officially responsible for

¹ Plutarch, it is true, speaks of Aristides as *ἐπιμελητὴς τῶν κοινῶν προσόδων*, and there are expressions in the *Knights* of Aristophanes (v. 948) which have been supposed to imply that Cleon was officially “*ταμίης*” of the city. Against this is to be put the complete absence of any reference at all to such an office in inscriptions, and any certain reference in contemporary literature. Cf. *infra*, p. 117, n. 1, the passages quoted from the *Memorabilia*. Even in the *Knights*, the prize for which Cleon and the sausage-seller contend is represented as the ascendancy in the assembly (*τῆς Πυκνὸς τὰς ἡγίας*, v. 1109), not election to any office.

these matters. There were numerous subordinate officials; but they were all appointed by lot, and had thereby neither claim nor power to direct the policy of the city. There was the council, which with its important duties was the centre and pivot of the whole system; but it was after all a body of 500 men taken by lot; it could scarcely be that the Athenians would look to it for wisdom and advice.

*Financial
duties of
the
orators.*

The constitutional advisers of the assembly were not the officials, nor the council, nor even necessarily the generals. They were the orators¹. It was on their energy and ambition that the direction of the finances depended, as did the supreme control of all departments. And the Athenians could afford to trust to them for advice, for, so long as political ambition was keen, and success in public life the great desire of every able man, the people knew that these matters would not be neglected. The competition was too vigorous. If a young man wished to distinguish himself, he must do so by winning the ear of the assembly. To do this, he must be able to criticise the plans of others, or formulate plans of his own; to show how money could be saved, or how it could be better spent. Whether he dealt with naval matters, the relations to the allies, the adornment of the city, or the celebration of public festivals; if he wished to make an effect, and win reputation, he must have command of the question of supply. No one could hope to win a permanent

¹ Dem. xiv. (περὶ συμμοριῶν) 2.

place who did not show a thorough acquaintance with the finance of the city¹.

There is an admirable illustration of this in the *Memorabilia* of Xenophon². Socrates is represented as conversing with Glaucon, a young man who without adequate knowledge and experience is trying to push himself forward. He wishes *προστατεύειν τῆς πόλεως*, and Socrates shows him how many things he must know if he wishes to do this; he must understand all about the income of the state and the expenditure; he must know the relative strength of Athens and other states; he must know whence the food supply of the city comes. Now Glaucon is not coming forward to stand for any office; he does not aim at being "public treasurer," or "general;" he is much too young to be eligible: but he wishes to become popular with the assembly, and to do what he likes in the city. He, if he becomes *προστάτης τοῦ δήμου*, will also "administer the affairs of the city." Now what this and other conversations show is that numbers of young

¹ We are told of almost every well-known man, that he occupied himself with finance. I have collected a few instances for which I am chiefly indebted to Beloch (*Att. Politik*).

Cleophon, Lysias xix. 48. Aesch. ii. 76.

Agyrrhios, Ar. *Ranæ*, 367, Schol. ad Arist. *Eccl.* 102. τὸν μισθὸν δὲ τῶν ποιητῶν συνέτεμε καὶ πρῶτος ἐκκλησιαστικὸν δέδωκεν.

Archedemos, Xen. *Hell.* 1. vii. 2. Ἀρχέδημος ὁ τοῦ δήμου τότε προεστηκώς καὶ τῆς διωβελίας ἐπιμελόμενος. This probably refers to an exceptional office created at the time. Cf. *supra* p. 72; cf. Boeckh, *St.* p. 282.

Kallistratos, Theop. Fr. 95. Καλλίστρατος ὁ Καλλικράτους δημαγωγὸς...τῶν δὲ πολιτικῶν πραγμάτων ἦν ἐπιμελής.

² Xen. *Mem.* iii. 6.

men would try to enter on a political career without requisite knowledge, but that anyone who wished to succeed would be obliged, at least to some extent, to acquire it. The system did not ensure that the best advice would be taken, nor the wisest man successful, but it did ensure that there would be plenty of people doing as much as they could to learn about finance, and other matters.

And though there was no official responsible to the assembly, every Athenian would always know whose duty it was to give advice in financial and other matters. He did not feel the want of a public treasurer. If he wished to know the state of public affairs, he listened to the *προστάτης τοῦ δήμου*: for anyone who had become *προστάτης* could only keep his position by constantly being able to give on every point what seemed to be the wisest counsel. Thus, when Pericles advised the people to go to war with Sparta, he had to make to them a full statement of all the resources of the state, and showed how by following his advice they had acquired a treasure equal to any demands likely to be made on it. Again, when Cleon was leader of the people, he used and strengthened his power by his financial innovations: it is this which makes his policy, and gives character to his rule. It was not in consequence of any official post that he could do this, but because he had won for himself a position of recognised supremacy in the assembly. A *προστάτης* who failed, who had no advice to give, who could not make a plausible speech, would thereby lose his position. He would not have to be ejected, he would

not lose it at an election; it would be *ipso facto* forfeited to some successful rival¹.

This system had nothing irregular or informal about it. The orators when they undertook this duty were perfectly aware that they were fulfilling a public function, and had a full sense of the responsibility attaching to it. What else is the meaning of the law that a man shall be subject to impeachment (εἰσαγγελία) because he has given bad advice to the city²? In most states the responsibility for the mistakes of government belongs to some official. At Athens it belonged to the man who proposed the decrees which gave effect to the policy. It was right and necessary that it should. A man who proposed to enter on a war, or to found a colony, or to remit a tax, was quite fairly held to be responsible for the result of his proposal, though he had no official position. The law was no doubt often abused: but it was none the less wise to establish the principle that a man who of his own accord, to justify his own ambition, put himself forward to recommend a course of action should be held himself

Constitutional position of the orators.

¹ It is only necessary to read the *Memorabilia* to see how futile is the attempt to find some elected official. The object of political ambition is always represented as “προστατεύειν τοῦ δήμου,” “ἐπιμελεῖσθαι τῶν δημοσίων.” The two terms are used as identical (ii. 8. 4, iii. 7. 1, iii. 6), and in connection with them Socrates never makes any reference to elections. The prize is always attained by coming forward as a speaker in the Assembly. But whenever he mentions the generals he always has some reference to election (iii. 1. 3, iii. 4. 1). Had there been any finance office which was an object of ambition, we must have had constant references to it.

² Hypereides iii. 45—6.

responsible for the result of his advice¹. The advice of the orators was not always good: it was often very bad; the fact that the position of a *προστάτης* was so powerful while it lasted, and yet so precarious, was a great source of temptation; but at any rate the state did not suffer from want of advice: the absence of a financial Secretary did not mean neglect of the finance, or the absence of proper control.

*Result of
this
system.*

How did this system work? Was it successful? Did not the Athenian state suffer from the absence of a single head to the financial system? The answer is generally unfavourable. The eventual ruin of Athens is represented as due to financial mismanagement. That it was to a great extent due to pecuniary embarrassment, is certainly true. The facts indeed seem to be as follows. The complete Athenian system grew up at a time when the population of Athens was small; when the amount of personal property was moderate, and the difference between the wealth of rich and poor in consequence slight; while, at the same time, the wealth of the city itself, owing to the large tribute of the allies, was, in proportion to the wealth of other cities, very great. There was therefore no difficulty in getting the money necessary for carrying on the government; the ordinary expenses were small, and of these the greater part was met by the system of

¹ Dinarchus in Dem. 35 illustrates the duties of a leading orator; he puts a series of questions, "*ἐγραψάς τι—συνεβούλευσας—ἐπόρισας χρήματα.*" A man who had once come forward was expected and required to continue his activity just as much as if he were an official.

λητουργίαι. Under these circumstances finance administration was easy. It was not difficult to provide the necessary money, and there was no need for the exercise of particular ingenuity in the levying of taxes.

In the 4th century the circumstances had altered. *Financial decline of Athens.* The chief sources of the income of the state were gone; and at the same time the expenses had greatly increased. The use of mercenary soldiers was a constant drain on the resources of the state. At the same time the increasing commercial prosperity of Athens, which does not seem to have been permanently affected by her political disasters, produced a complete change in her social conditions. The old hereditary landed aristocracy was extinct: their place was taken by wealthy capitalists, merchants, and shipowners; and with the capitalist appears the pauper; there are found a considerable number of citizens who have not sufficient to support themselves¹. The result of this was that financial questions assumed a difficulty from which they had before been free. It became now a serious question how sufficient money could be raised for public purposes in such a way as to cause least discontent. The incidence of taxation was an important point: if a war was imminent, the first question to be decided was whether the money to carry it on was available, and whence it was to be obtained. On the decision of this question depended the safety of

¹ Cf. Isocrates, *Areopagitikos*, 83 *νῦν πλείους εἰσὶν οἱ σπανίζοντες τῶν ἐχόντων.*

Cf. also *περὶ εἰρήνης* 127—8.

the state, and the manner in which the money was raised might cause the ruin of a whole class of citizens. Hence arose the necessity for having a specialist at the head of the finances: altered conditions required a change in the constitution; the democratic institutions had suited the conditions of which the democracy was itself a product, but they were no longer equal to the strain when a large mercantile city which carried on its wars by mercenaries, in which all expenses had to be met by direct taxation, was pitted against a king who had behind him all the resources of a continental nation, and possessed the richest gold mines of the ancient world.

The change in the constitution had begun. The institution of the *ὁ ἐπὶ τῇ διοικήσει*, and the position held by the *ὁ ἐπὶ τὸ θεωρικόν*, are a sign that the council and orators were no longer equal to the work which they had formerly done; and a change had almost imperceptibly come over the administration, which, had Athens been victorious in the war with Philip, would have led as surely to an overthrow of the old constitution as did the victory of the Macedonians. With the increase of education and the increase of wealth, the government would have tended to pass into the hands of the wealthy merchant; the new elective offices would have overshadowed the old which were filled by lot; the council of 500 would have lost its power, or changed the mode of election; Athens would have become a democracy after the type of Rhodes. The assembly might have kept its sovereign power, but

the direct government of the city must have passed out of its hands. This would have been so because the circumstances which rendered the complete democracy possible were unique. A successful government always expresses the social condition of the people. The use of the lot was only possible owing to the compactness and homogeneity of the Athenian population. When the increase of wealth had divided Athens into two cities, the city of the rich and city of the poor, it became an anachronism.

§ 2. *Subordinate Administration.*

The supreme control of the finance was then the duty of the orators acting as advisers to the assembly; but if all questions were there debated, and if all speakers had to be acquainted with these matters, the detailed administration must have been of such a kind as to make it easy to get an insight into the financial condition of the city. How this was done we must now enquire.

The administration was the function of the council and the subordinate offices. The relation of the council and assembly was in this the same as in all other matters. The council had no independent power; it was only the committee of the assembly, whose duty was to bring into order the mass of details which would otherwise have interfered with its freedom of action. In finance, inasmuch as here so much depends on accuracy of detail, the duties of the council were more extended, and those of the assembly smaller than in other departments. The

*Duties of
the
Council.*

ordinary income of the state came from the sale of taxes, the letting of public lands and mines, and a number of smaller dues, fines, etc. These having been in the first instance paid to the *κληρωτοί* officials (of whom more presently), they, as soon as the money was received, paid it in to the *ἀποδεκταί*, who received it in the *βουλευτήριον* in the presence of the council, or more strictly of the *πρυτάνεις*. The money thus passed into the possession of the state; but the central bureau was not presided over by a single man, but by the 500 councillors. If the money were wanted for immediate use it would then probably be at once paid out by the *ἀποδεκταί* to the heads of the departments which required it; to the *θεσμοθέται*, or to the *στρατηγοί* and *ἀθλοθέται*. Once a month the *πρυτάνεις* had to deliver before the *ἐκκλησία* an exact account of all moneys received and expended by them during this period¹. It is in this monthly account given by the *πρυτάνεις* to the *ἐκκλησία* that we must first look for the basis of the supreme finance administration, because in it would be apparent whether the receipts exceeded the necessities of the time, or whether there was a deficit. It was by a comparison of these published accounts, month by month, and year by year, that politicians would get the information they desired. It was there that the summary of the expenses of the time was to be found. It was by means of these accounts that surplus or deficit became apparent. This, therefore, was the mode in which the

¹ Cf. Gilbert, St. 1. p. 323.

people were kept informed as to the condition of the public exchequer.

The council was moreover the intermediate body which tabulated the requirements of each department, in order that they might be easily explained to the assembly, and it was the council who were responsible for calling attention to any necessary changes. Suppose on any occasion the income did not suffice for the expenditure—that the proceeds of the mines were not sufficient to pay for the building of new triremes, or the other taxes did not bring in enough to pay for the *διωβελία*. The *τριηροποιοί* or *θεσμοθέται* would as usual apply to the council for the money which they required to build the ships, or give the two obols at the festival; but the council had not the money: either the expenses had increased, or owing to disasters at sea the income had diminished. It rested with the council to meet the difficulty, for they were responsible to the assembly, and would be called to account if the triremes were left unbuilt, or the two obols not paid. But they had no power themselves to raise new taxes, and there was no large reserve fund of which they had the disposal. Their only method of action would be to come before the assembly, and there announce the deficit. The orators would thereupon propose means of relief. Many suggestions would be made; a full discussion might take place on the financial condition of the city; but if the *προστάτης* of the time had a strong position, the assembly would accept his advice and act on his policy. This was doubtless the procedure in the case of the

loans from the sacred treasure of which we have record. During the rule of Pericles, and throughout the Peloponnesian war, the tribute was often not sufficient to meet the extraordinary expenses. The *στρατηγοί*, the *ἀθλοθέται*, the *θεσμοθέται* found themselves without the necessary supplies; they gave notice to the council; the *πρυτάνεις*, probably after enquiry, brought the matter before the assembly, and the proposal was made to raise the money by borrowing from the sacred treasures. During the Peloponnesian war of course this was often necessary. It had become customary to meet a great number of the regular expenses of the state by charging them on the proceeds of the tribute paid by the allies, which were under the charge of the Hellenotamiai. When owing to the revolt or poverty of the allies the tribute failed, either the Generals or the Hellenotamiai would report to the council that there was no longer money to make the usual payments. The council reported to the assembly. The assembly decided (probably by the advice of the leading orator of the time) that money should be paid in to the Hellenotamiai from the treasure stored in the temples.

The council chamber thus formed the central bureau, from which direction and control could be exercised over all departments; and all payments were made by the Prytanies, sitting as the representatives of the people, through their clerks the *ἀποδεκταί*, a body of men appointed annually by lot.

The monthly accounts which had to be laid

before the assembly were probably drawn up by the Prytanies themselves or their "secretary" (*γραμματεὺς*), unless—as is possible—this was one of the duties of the Logistai.

These Logistai were a board of 30 men, who were *Logistai*, appointed by lot. They were the public accountants of the state. The monthly accounts of the Prytanies, though they afforded a means of comparing the total income and expenditure for the month, and would ordinarily prevent any extensive fraud on the part of the members of the council, would yet have to be much supplemented if the orators and politicians were to possess the information necessary for preparing financial schemes, and getting a grasp of the condition of affairs. It was the duty of the Logistai, at the command of the council or assembly, to supplement these, as often as was desired, by preparing tables of statistics. Whenever a statement was required of the total expenses of any department, or of the debts of the state, or the produce of a tax, application would be made to the Logistai, who had then to produce the information.

This duty was of most consequence at the annual examination of the retiring magistrates, and at the quadrennial examination of all the public accounts. Every magistrate, before he retired from office, had to produce an account of all the public money of which he had had charge. It was the duty of the Logistai, as public accountants, to examine these accounts; and to test their accuracy by comparing them with one another. If in the accounts of the Treasurers of the Goddess, or the Hellenotamiai, a sum was entered

as paid to the Generals, the Logistai would have to turn to the accounts published by the Generals to see whether this sum was properly entered there. Similarly, the accounts of the Poletai would be checked by a comparison with those of the Practores, from whom they had received the confiscated property of public debtors, and of the various companies who had bought from them any tax. Supposing any inaccuracy were discovered, this could be made the ground for legal proceedings; and, according to the regular Attic custom, the case would be tried by a jury court presided over by the Logistai.

The duties of the Logistai were however in no way confined to this audit. Whenever any statistical information concerning the finances was desired, the council or assembly would require the Logistai to produce it. Hence the Logisterion was a kind of archive house, where were kept not only the accounts of each board of magistrates, but financial statements of all kinds which had been drawn up by the Logistai. Some of these have been preserved to us.

During the Peloponnesian war, the *ταμίαι τῆς θεοῦ* were ordered to pay from the treasure under their charge certain sums of money to the Generals and other officials, in order to meet the deficit caused by the failure of the tribute and the expenses of the war. In order simply to test the correctness of the accounts, it would have been sufficient to see that the sum entered by the *ταμίαι* as paid corresponded to that which the Generals and other officials

professed to have received. But the money was only borrowed from the temples: it would have to be repaid, and repaid with interest; but as it would be repaid not by the separate boards to which it had been lent, but by the council from the general fund at their disposal, it was necessary to have a record of the whole sum borrowed, together with the interest on it. The treasurers, as representatives of the Goddess to whom the money was owed, would doubtless keep such a record; but the state which owed the money would also have to do so. We have the fragments of a table of this kind, which has been drawn up by the Logistai as a record of the money owed to the Goddess by the state¹.

If the supposition be correct, according to which the lists of the firstfruits of tribute due to Athene were drawn up by the 30 Logistai, we get in these another instance of the same kind². The tribute paid each year varied to some extent, and so of course the sum received by the temple treasure also varied: in order therefore to be able at any time to know what sum had been paid, the λογισταί themselves kept a full list of the amount of the firstfruits. Each successive board of λογισταί as they came into office would find a full statement of what money had been paid into the Treasury. This they would use for reference in the quadrennial examination of the temple accounts; and it would also be available

¹ C. I. A. i. 273.

² C. I. A. i. 226—254. These lists are put up ὑπὸ τῶν τριάκοντα, who are probably the same as οἱ λογισταὶ οἱ τριάκοντα of C. I. A. i. 32.

whenever, for the discussion of financial matters, a statement of the money in the temples and the probable income for future years was necessary. Similarly, when the council was occupied with the question of the assessment of the allies, the help of the Logistai would be required. The total sum to be exacted from the allies having been fixed by the assembly, it was the duty of the council to determine each year the quota to be paid by each city. It is surely not unreasonable to suppose that the help of the Logistai, and the tables drawn up by them, would be used in order to make the necessary calculations.

Another instance is preserved in an inscription, which records the repayment of a certain sum of money that was owed to the sacred treasures. In it we find that the council is ordered to summon the Logistai, who are to calculate the sum which is to be repaid, and make a report to the council¹.

In all these cases we see that, though the existence of these documents would make fraud by the officials very difficult, this was not their only value. They would make it possible for anyone to acquire with very little difficulty an accurate knowledge of the financial condition of the city. By going to the Logisterion, any citizen could in a short time at first hand get the information which Socrates warned Glaucon was necessary for all who wished to give the city useful advice. The people would learn that without which they could not manage their own affairs. The publicity of business was secured.

It is surprising to us that the Athenians should

¹ C. I. A. i. 32.

have considered this to be work which did not require special skill, and could be entrusted to men selected by lot. With regard to them we should especially like to know from what class of the population they were generally taken; also whether they always sat and worked all together, or were divided into several separate divisions each of which took part of the work. We can at least be sure that the fact that so many men were together responsible for the work, and that they were appointed only for one year by lot would completely avert what is for such a body the most serious danger, that of collusion. Appointed as they were, any deliberate agreement with the other magistrates, whether treasurers or executive, would be almost impossible; and the remains which we possess are sufficient to show that their work was thoroughly done¹.

We can now pass on to the consideration of ἀποδεκταί the duties of others of the officials. The ἀποδεκταί I have already mentioned. They appear to have been little more than clerks. They sat in the council chamber, received money when it was paid in, counted it, gave receipts, paid it out, and took receipts. The only question concerning them which presents much difficulty is whether they had a treasury of their own where money was kept. Supposing money were paid in to the ἀποδεκταί which

¹ For a case where the work was dishonestly done, cf. Aesch. in Tim. 107 (126), λογιστὴς γὰρ γενόμενος πλείστα μὲν τὴν πόλιν ἐβλαψε δῶρα λαμβάνων παρὰ τῶν οὐ δικαίως ἀρξάντων, μάλιστα δ' ἐσυκοφάντησε τοὺς μηδὲν ἡδικοῦσας.

was not at once wanted by some other office, but would be wanted for the current expenses, and so could not be added permanently to the reserve fund, what would be done with it? where was it kept? would it even for one night be added to the sums kept in the *ὀπισθόδομος*, or was there some treasure-house under the immediate control of the council? We must, I think, assume that there was, but, so far as I know, no record of it has been preserved¹.

κωλακρέ-
ται.

A point of some interest is the relation of the *ἀποδεκταί* to the *κωλακρέται*². All we are able to make out is, that the latter was a very old office; while the *ἀποδεκταί* were most likely introduced either by Cleisthenes, or later, for they are closely connected with the council of the 500, and were probably first created when it acquired its administrative duties. The *κωλακρέται* were however retained for some time, and money for certain purposes was paid by them till the end of the 5th century, after which they seem to disappear. They are said generally to have paid money for sacred and ritual purposes, but in the inscriptions this is not ex-

¹ We hear of a *ταμίης τῆς βουλῆς*, but probably his duties were quite unconnected with the control exercised by the *βουλή* over the expenses of the State. He had charge of the fund which the council required for its own expenses,—to pay its messengers and slaves, to provide for the setting up of decrees, etc. This must be clearly distinguished from the administration of the unappropriated public money.

² Harpocr. *ad voc.* *ἀποδεκταί* says:—*ὅτι δὲ ἀντὶ τῶν κωλακρετῶν οἱ ἀποδεκταί ὑπὸ Κλεισθένης ἀπεδείχθησαν*, 'Ανδροτιῶν ἐν τῷ δευτέρῳ. The *κωλακρέται* are however constantly mentioned in inscriptions throughout the 5th century.

clusively the case¹. It is disappointing that we are not told how the *κωλακρέται* were appointed: it would be a considerable help to know in what way the Athenians dealt with an old-established semi-religious office of this kind.

The Logistai and Apodectai were both closely connected with the council. They belonged to the central administration of the finances. We must now turn our attention to other officials who were occupied with the work of the various departments.

And of these it will be convenient first to take the Hellenotamiai, because at one time their duties ^{ἐλληνοταμιαί.} became so extensive as to make them really treasurers of almost all the public money. We are unfortunately however left in ignorance on many points connected with them. There is even no record as to the manner and conditions of their appointment. This is due to the fact that, as they ceased to exist after the 5th century, the lexicographers tell us nothing of them. From the lists of them which are preserved we find however that they were probably 10 in number; that they were taken apparently from the wealthier classes; that the office was an annual one; and that re-election was not practised. Whether they were appointed by lot we do not know. The probability seems to be that they were: at least their duties do not seem to have been

¹ C. I. A. i. 25, iv. 11^b, 27, 35^b, 53^a. Schol. ad Aristoph. *Vespas* 695, *Aves* 1541. It seems as if they gradually lost their functions, since in some of the inscriptions quoted they pay money which in later times would be paid by the *ἀποδεκταί*. In the last they and the *ἀποδεκταί* are both mentioned.

of a different kind from those generally entrusted to the magistrates who were so elected. They were responsible for the custody of the tribute paid by the allies; they had to receive it from the collectors, acknowledge the receipt, and take care of it, till they received an order from the Assembly to pay it away. This work is exactly similar to that done by the Treasurers of the Goddess who, we know, were chosen by lot from among the members of the first class¹.

At the beginning of the Peloponnesian war the office of the Hellenotamiai had become the centre of the whole financial administration. The reason of this was that as the tribute of the allies was by far the largest sum which was at the disposal of the Assembly, it had become customary to defray from it expenses which ought really to have been charged to other funds, and thus it happened that during the war, when the Treasurers of the Goddess advanced money to the state, they generally paid it to the Hellenotamiai. This was simply for convenience of management. The Generals, the Thesmothetai, and the Priests had been accustomed to draw their supplies from the Hellenotamiai. When their treasure was exhausted, the question how to provide money again came before the council and the Assembly. It was decided to have recourse to the sacred treasure, and the Treasurers were simply ordered to pay the money to the Hellenotamiai. The executive magistrates continued as before to

¹ It is common to say that the Hellenotamiai were elected, but I find no authority for this. Cf. Busolt in Müller's *Handbuch*, iv. 1. § 178.

draw upon them: and it was much easier to keep a record of the public state if this money was paid first into the treasure, and not direct to the several departments.

Next in importance are the "Treasurers of the Goddess." Our information about these is considerable and of such a kind as to enable us to realise with some detail the workings of the system of which they formed a part. It is necessary to say however that they stood on rather a different footing from the other officials who were elected by lot, because, according to an authority¹ whom there is no reason for rejecting, they were not chosen from all citizens but only from those who possessed sufficient property to be classed among the *πεντακοσιομέδιμνοι*. The reason of this was, apparently, that, supposing any of the money entrusted to them disappeared, it might be possible to recover it from the private property of the treasurers. With this exception they seem to have held a position similar to that of other *κληρωταὶ ἀρχαί*, and their duties appear to have been strictly defined in the way which was necessary for officials so chosen².

Their actual business was the custody of the money and treasure deposited in the temple on the Acropolis. They had to take care that it was not stolen³. The state had to see that the treasurers

¹ Pollux 8. 97; and Suidas referred to by Gilbert, St. i. p. 234. [But see Appendix.]

² The first mention of them is in Herodot. viii. 51.

³ Cf. Dem. in Timocratem 136 for a case where the *ραῦλαι* were accused of criminal negligence because the temple had caught fire.

themselves did not steal it. We find that ample means were taken to ensure the attainment of both these ends. Each board when it came into office had to make a full inventory of all the treasures contained in the temple, which on their retirement was handed over to their successors. These after making their own inventory would proceed to compare the list of treasure actually present in the temple with the list they had received. The treasurers might not spend any money, nor part with any treasure (except perhaps small sums) without the sanction of a special vote of the assembly¹; a special record of all such authorised expenditure was made out by the treasurers. At the end of every four years the accounts for that period were examined by the λογισταί: and had any of the ταμίαι for any year abstracted aught of the treasure, or owing to carelessness allowed it to be taken, it would be impossible to avoid detection. If he had taken something away and omitted it on the list he handed over to his successors, the fraud would at once be discovered by a comparison of his list with that of his predecessor: and, unless he could show some decree authorising him to take it away, or some other public body to whom he had paid the money (in which case the receipt of it would have been entered in the accounts of that body in the possession of the λογισταί), he would have to make good the loss to the state, and be liable to a criminal prosecution. On the other hand, supposing he abstracted something, but entered the

¹ Cf. C. I. A. i, 188, v. 3, ψηφισαμένου τοῦ δήμου. In l. c. 183—4 we find the formula ψηφισαμένου τοῦ δήμου τὴν ἀδειαν.

money or treasure in his list as though it were still there, the loss would be discovered by his successors when they made up their list. The advantage of the collegiate system, annual office, and election by lot will be clear. Peculation or fraud could only be successful if the officials several years together entered into a conspiracy, for it was the officials of one year who in self-defence were obliged to point out any mistakes in the accounts of their predecessors. But a conspiracy of the extent which would have been necessary must have been almost impossible, just because the officials of each year were bound together by no tie; that they served together was pure chance; and no board could foresee by whom it would be succeeded. Had there been one or two *ταμίαι*, had they been elected, had re-election been allowed, or had the office been held for many years, then peculation would have been possible and comparatively easy; because there would have been fewer persons involved, and there would have been more time. Had the *λογισταί* been few in number, had they been elected, there might have been a hope of bribing them and giving them a share of the profits, or of getting suitable people elected. To admit 30 men chosen by chance into a conspiracy of the kind would only have been possible where public morality and public spirit were very low. Had that been the case, the democracy could not have existed¹. What it required was a good deal of public

¹ Aeschines in Timarchum 109 etc. (127—28) relates an instance where a *ταμίης* was enabled to steal money from the temple by the collusion of a *βουλευτής*, but he does not say any-

activity, and a moderate standard of honesty; what the constitution ensured was that the officials should not have any temptation to fall below the average of honesty—a temptation which is often present, and perhaps seldom resisted. The object of all such machinery must be not to raise the standard of probity, but to make use of it, and to apply it to the public administration.

The inscriptions which have been discovered are sufficient to convince us of the reality of the precautions taken, and of the care devoted to the arrangement of all the details of the system. The most interesting is one¹ which records a vote of the *ἐκκλησία* concerning the creation of a new board of treasurers, apparently those which were known as the *ταμίαι τῶν ἄλλων θεῶν*. This shows us clearly the working of the system. The whole arrangements are made by a decree of the Assembly; it is the *δῆμος* which decides that the money shall be repaid to the gods, and sets apart a certain revenue to meet the expenditure. The work is entirely carried out by men elected by lot: first of all, the *λογισταί* calculate exactly what the sum due is; then, when they have done so, the money has to be paid back to the priests and other officials, from whom it had been borrowed, by the Prytanies in the council; and all the documents in possession of the priests recording the debt are to be destroyed. By this

thing which enables one to see how he did it. The difficulty in this and similar cases is that we do not know how much members of the board could do alone without their colleagues.

¹ C. I. A. i. 32. Hicks N. 38.

means the account with the priests and curators will be closed. The decree then proceeds to make arrangements for the custody of the money in the future. Treasurers are to be chosen by lot, the priests and curators (who have just received the money) are then to pay it to the new board in the presence of the council. The new treasurers are then to count it, and publish a list of what they have in their possession; and every year the board has similarly to publish a list of the money in the treasury, with an account of all which they have received or spent.

This decree is in many ways very remarkable. It was made in the year 435. Pericles' influence was then at its height, and we may naturally suppose, even if the actual wording be not his, that it expresses his policy. It was passed after the full democratic constitution had been introduced; all the officials mentioned in it are elected by lot. A careful examination of it will, I think, bear out the position I am defending, that efficiency of administration was one of the chief characteristics of the Democratic constitution of which election by lot was a part. The framers of the decree have a distinct end in view, and they have an ample machinery to attain it; the wording of the decree is simple and straightforward, it is not burdened with circumlocutions, there is no parade of legal accuracy, but at the same time the meaning of each clause is quite clear¹. For the execution of the

¹ There is an almost pedantic adherence to the proper forms: the money is to be paid by the *πρωτάρις* to the old *τερεῖς*, i.e. the

decree a number of officials are required, but the duties of each are carefully defined, and every precaution is taken to make it clear that each board has one definite thing to do, which it must do, and no more. The execution of the whole depends on the efficient co-operation of a number of men, but their duties do not overlap. The duties assigned to each are in fact so simple only because they belong to a highly organised system. Election by lot appears here not as the result of democratic jealousy, but as part of a clearly thought-out system, which has been carefully elaborated so as to exclude as far as possible serious mismanagement, or fraud. The Athenian intellect applying itself to financial organisation has produced a system which shows admirable clearness of conception and thoroughness of execution. It is possible that the system was not so perfect in its working as it appears to be on paper: but this decree at least justifies us in maintaining that the statesmen who introduced the lot did not do so recklessly; one is tempted to think that one of the chief reasons why Pericles made his democratic changes was that he saw in them the only means of getting a pure and efficient administration.

πωληται.

Among other officials who were connected with finance were the *Poletai*: that they were appointed by lot illustrates the remarkable nature of the system. They had to transact on the part of the state all the business connected with the sale of any public

officials from whom it was borrowed: and then is paid by them to the new *ταμῆαι*: not paid direct by the *πρυτάνεις* to the new *ταμῆαι*. Cf. vv. 10 and 18.

property, and the reception of tenders from contractors for the execution of public works. Their office was of particular importance because among their duties was the sale of the taxes to the men who farmed them. From this alone it follows that a very large part of the permanent income of the State must have passed through their hands. Besides this, they dealt with all the money which came from the sale of property which had been confiscated. Now this, especially in times of distress, was no inconsiderable sum, and the proceeds of such sales were looked on as an important part of the public income.

The duties would be the registration and publication of all taxes, contracts, and property which was to be sold. The publication took place by notices put up outside the office of the Poletai in the Agora¹. Here too the actual sale would generally take place. In the case however of important taxes, it appears that the sale took place before the council²; and it is not improbable that the members of the council actually voted as to who should be allowed to buy the tax; a procedure analogous to that which sometimes took place in the lease of the property of a minor by the Archons in a law-court. In less important matters where this did not happen, the sale was by public auction. Probably the ten Poletai sat on raised seats and presided; the proclamations would be made by a Herald, and the Secretary of the board would take notes of the

¹ Cf. Wachsmuth, *Die Stadt Athen*, ii. 357.

² *Andoc. de mysteriis*, 132—134. [See Appendix.]

proceedings. The Poletai would be responsible that all was done with proper formality; they would determine on the time, see that due notice was served, give the necessary orders to the public slaves, and formally assign the purchase to the highest bidder¹. For the preservation of order there would be one or more police (*τοξόται*) at their disposal. The purchaser would then have to pay the money to the Poletai in their office; after which, they would personally hand over the property, or in some form give a certificate of purchase. Finally, they had at once to pay the money which they had received to the Apodectai in the Bouleuterion; and, when the year was over, to draw up and publish accounts of all they had received by sales. These would at the end of their office be examined by the Logistai, and would afterwards be preserved among the other archives².

πράκτορες.

It is not possible to get quite as clear a picture of the duties of the Practores. They had to exact the money from men who had been fined by a magistrate, or by a law-court. The magistrate who had inflicted the fine, or the president of the court, sent a record of it to the *πράκτορες*, who, we must suppose, had also a regular office. They would then either by means of a public slave, or in person, request payment. If the fine were paid at once, the record of the debt would be destroyed, and the Practores would hand over the money to the

¹ Plutarch, Alc. v.

² There are preserved several fragments of inscriptions which appear to belong to these accounts of the Poletai. C. I. A. i. 274, etc.

Apodectai. If payment were delayed, the name of the defaulter would be entered in the list of public debtors, the supervision of which was the chief duty of these officials, and until his name was erased the defaulting debtor would be deprived of his political privileges. If the debt were in any way disputed, the matter could be made the subject of a fresh trial; and in that case the Practores would empanel a jury, and themselves preside in the court. If however a debtor from want of money did not pay the debt, he seems generally to have been left at large, but was liable to a criminal prosecution supposing he attempted to use his rights as a citizen. If for any reason rigorous measures were to be adopted, the Practores would order the confiscation of his property; which would then be handed over to the Poletai to be sold. If it were movable, the Practores would request the Eleven to go and seize it. In some cases the person of the debtor would be seized, and he would be kept in prison. The names of men who had not paid the taxes would also be given to the Practores as public debtors, but probably only after they had been convicted in court. The duties of the office seem however to have been chiefly the collection of debts in consequence of the decision of a court, and the care of the list. Their duties, important as they were, were only a single part in the procedure by which money from condemned criminals was safely conveyed to the public treasury. The principle of division of labour is here also carried out. This careful limitation of the duties of each office, which in a modern bureaucracy is often

so deadening, was necessary when the officials were changed each year.

These *πράκτορες* were closely connected in their duties with the Eleven.

*The
Eleven.*

The Eleven seems to have been an euphemistic name for officials who in later times and in other states were called *δεσμοφύλακες*¹. They had not only the charge and control of the prisons, with the duty of superintending and being present at public executions, but they had also to seize the persons of men who were to be imprisoned and the property which had been confiscated. The actual taking into custody and execution was of course performed either by slaves or servants.

From the account of the death of Socrates given by Plato, we learn that the whole college of the Eleven announced to him personally the approach of his death. It is probable that a distinguished prisoner like Socrates would be treated with more respect than an ordinary man who was to be executed; but this narrative will remind us that the dignity of these offices, which might easily have suffered from the mode of appointment, would be preserved by the number of members of which they consisted. They would give countenance and authority to one another: whether it were the Poletai presiding at a sale, the Eleven at an execution, or the Practores in court, an ordinary citizen who would have no respect

¹ It was probably from a similar feeling that the prison was generally called *τὸ σῆκημα*. Cf. Wachsmuth, l. c. ii. p. 383, n. 2. They are also called *ἐπιμεληταὶ τῶν κακούργων*. Antiphon, de morte Herodis, § 17.

for one of these men individually would be quicker to recognise in them the authority of the laws when he saw them moving about together and acting in company. This is not necessary when the magistrates are members of one class in the state; or when, being appointed for their ability and holding office for many years, they can gather around their own persons the mystery and dignity of office. The corporate and collective action of many men, however foolish and insignificant as individuals, would form some substitute for this.

The *εἰσφορά*, or direct property tax, which was *Other Officials.* only levied in times of war, or other great necessity, was not sold as were the indirect taxes. It was collected directly by the state. For the collections there were special officers appointed. We hear of *διαγραφεῖς*, who had apparently to superintend the assessment, and *ἐκλογεῖς*, who actually collected it. These latter are said by the lexicographers to have been chosen by lot, and this statement is supported by a passage in Demosthenes¹. If this be the case, they are an exception to the rule that men were never chosen by lot for any but continuous offices; unless indeed, as is possible, they were appointed annually, so that all the machinery might be ready for the levying of a tax should one be required. We have no information about them, and it is probable that both in the formation of the register and the collection of the money, the officials of the Demes and other divisions did the greater part of the

¹ Androtion 48. The *ἐπιγραφεῖς*, however, mentioned by Isocrates xvii. 41 were elected.

work, which would otherwise have been far more than could have been managed by a single board. The *διαγραφεῖς* and *ἐκλογεῖς* must have superintended the action of the local officials on behalf of the central government.

This list of officials will give some conception of the wealth of labour spent by the Athenians on a single part of their administration; and it illustrates the chief characteristics of the system. The work was so much divided, that the duties of each office were very simple. In consequence, it was possible to fix the responsibility for any neglect of duty, or dishonesty, upon the board in whose jurisdiction the matter was; and an elaborate system of accountability resulted, by which it was the interest of any one office to point out the dishonesty of another, and whereby it became difficult to organise any fraud without the certainty of detection. It does not sound a great deal to say that the Athenian system rendered it difficult for its officials to cheat, and made it clear with whom the responsibility for doing any particular thing rested; but a very slight knowledge of the administration of ancient and modern states will remind us that most governments have not been able to attain what seems at first so easy.

CHAPTER V.

JUDICIAL MAGISTRATES.

THE extension of the custom of election by lot to judicial offices is more remarkable than any other use of it. It will be necessary to examine the object and result of this shortly. It will also be interesting to see to what extent the method of election caused the peculiarities of the Athenian legal system.

It is unnecessary to dwell on the effect which the existence of a class of trained lawyers has had on the constitutional development of various countries. Both in England and in Rome their decisions have had a great part in the creation of the laws; and in America it is the lawyers alone who are now to some extent removed from the influence of the popular will, and can even stop the execution of the laws passed by the representative assemblies. In these and in other cases we find a complicated system of law, administered by a class of men who have had a special training, and are strongly influenced by professional feeling. The complex system of law and the great influence of lawyers go together; one cannot exist without the other, and both are clearly

*Absence
of class of
trained
lawyers.*

opposed to the influence of Democracy. Both of these were completely unknown at Athens. This is so obvious that it perhaps seems superfluous to call attention to it; and yet it is worth while to ask the reason of it, the more so as their absence was essential to the existence of the Democracy.

Comparison of the Archon and the Prætor.

At first sight there is very great resemblance between the duties of a Roman Prætor and an Athenian Archon. The great influence which the Prætor had on the development of the Roman law came from duties which were nearly akin to those of the Athenian Archons. In both cases the chief duty of the magistrate was not to try the case, but to prepare it for trial; in both cases the actual trial was before jurors: with this important distinction, that at Rome civil cases were generally tried before a single judex, at Athens before a large *δικαστήριον*. At Athens as at Rome this arrangement was the result of a historical development: the original Archons like the original Prætors had themselves heard and settled all cases, and it was only by a later development that their duties were limited as they were.

Schömann explains clearly what were the duties of the Archon, or other official, under the system as we know it¹. It was before him that the plaintiff and defendant in a suit had to appear: they had to explain the grounds of the action, and had to collect evidence and lay it before him. The duties of the

¹ Meier u. Schömann *Attischer Process*, ed. by Lipsius. Cp. esp. 11. 41, etc.

magistrate were to a great extent formal, and would have been performed perfectly well by a clerk¹. He made no comment, and gave no opinion. He simply entered the case on the lists of those to be tried, and decided on which day it should be heard. He was also responsible for summoning the jury. It was indeed possible that the plaintiff had come before the wrong court: he might have summoned an alien to appear before the Thesmothetai, instead of before the Polemarch. In this case the magistrate could point out the error, and dismiss the case. But his influence did not extend beyond this. He did not use his position to declare, or interpret the law. And it is in this that he differs from a Roman Prætor. When a case was brought forward in Rome, the Prætor listened to the evidence on both sides and himself formulated the plea, and he did so in such a manner as thereby to declare the law. He exercised moreover very wide discretion in accepting or rejecting a case. He could, and often did refuse to grant a trial either because the plea had no real legal basis, or—a more remarkable stretch of his authority—because it seemed to him that the legal

¹ The account of the duties of the magistrate, ch. II. pp. 42—44 compared with the account of the ἀνάκρισις p. 790 etc. makes it clear that the only matters which in any case were left to his decision were (1) whether he should receive the suit, (2) on what day the case should be tried. Of these, as to (1), he had little latitude allowed him; he could only refuse to receive a suit in cases where to do so would be an obvious contravention of a law. His other duties were to receive the evidence on both sides, hear the oaths taken, and put the case in proper order: but all as a clerk might do it.

claims on which it was founded conflicted with equity.

*Small
powers
of the
Archon.*

But the Archon never used his personal judgment in this way: he took on himself no responsibility of this kind: it was inconceivable to an Athenian that he should. All he could do was, when the law clearly said that causes of a certain kind should be brought before a certain magistrate and not before him, to refuse to receive them. Suppose there were a dispute as to the interpretation of this law, even that the Archon or Thesmothetes did not himself decide. It was made the ground of a separate action and referred to a jury—in some cases referred to the same jury who tried the whole case, so that the same court had at the same time to consider the merits of the plea, and its own competence to try it¹.

What is the cause of this difference? Clearly this: that the Archons were chosen by lot, and the Prætors elected. The Prætor was chosen to fill his office either because of personal ability or because of his birth. But if he was chosen because of his rank, he was a member of a close body of men among whom a great knowledge of law was common. The leading lawyers were all Senators; a Senator did not act independently, he acted as a member of his order. A Prætor in his legal decisions would not only be giving his own opinion, he would be the mouthpiece of a body which contained all the legal

¹ Cf. Schömann l. c. p. 841 etc. In all the different forms which he describes, *διαμαρτυρία*—*παραγραφή*—*ἐξωμοσία*, we find that the question of jurisdiction is brought before a jury, and not decided by a magistrate.

traditions and wisdom of the state. Hence his decisions would have authority; if the Prætor told a plaintiff that he had no case, and refused to grant an action, the plaintiff would feel that the law had spoken: he would know that the Prætor had consulted other men before giving his decision. And the decision of the Prætor in consequence formed a precedent; it would be incorporated in the Edict of his successor, and would become a substantive part of the law as administered.

But an Athenian Archon had no power to take upon himself to grant or refuse a suit. He represented no one, he was of no special ability or knowledge. Had he done so, his act would have been purely arbitrary; he would not himself have been bound to act in the same way in other cases, much less would his colleagues and successors have been influenced by it. He had therefore none of that power of indirect legislation which at Rome was in the hands of the legal profession. And so the duties which the Roman Prætor carried out with intelligence the Archon performed mechanically.

A single case will help to make this clear. After the revolution of 403 an amnesty was passed, one clause of which decreed that (with certain exceptions) political acts done before that date should not be made the ground of a criminal prosecution. Of course, as could have been foreseen, attempts were made to evade this law, and difficulties arose as to the interpretation of it¹. In consequence it often

*Instance
of this.
The παρα-
γραφή.*

¹ Cf. Isocrates, πρὸς Καλλίμαχον § 1—3.

happened that someone was accused of murder, and pleaded in his defence not only that he was innocent, but also that he was protected by the Amnesty. It was obviously inconvenient that these two completely different questions should be tried at the same time by the same court: how then was a plea of this kind to be met? It was as a rule one not of fact, but of law: "If the defendant has committed the murder, is it one of those crimes which come under the Amnesty, or not?" Had a similar case arisen in Rome, or in any other state where the magistrate had authority and influence as a man learned in the law, the Prætor himself would have decided it. He would have granted or refused an action, according as he thought the defendant was protected or not by the Amnesty. But at Athens the Archons never attempted to take this responsibility on themselves. The only way of escape was a Law. Hence a law was passed through the *ἐκκλησία* instituting a new form of procedure to meet this special case—the well-known *παραγραφή*¹. A difficulty which at Rome would have been settled by the Prætor could at Athens not be solved without an appeal to the Assembly. We see at once how the power of the *δῆμος* was a direct result of the absence of ability and influence among the magistrates; in other words, how election by lot was necessary to the perfection of the democracy.

*Charac-
teristics of
Athenian
Law.*

We can now see to what was due the chief characteristic of the Athenian law, its great sim-

¹ Cf. Schömann p. 850, n. 234.

plicity. This did not come from any peculiarities of the Greek mind. The Athenians were not inferior to the Romans in their power of framing a system, nor were they wanting in ability to analyse the basis of law; yet the Athenian law never got beyond the rudimentary state: it remained merely a list of rules or precepts for conduct, with apparently little attempt at scientific arrangement. The Athenian courts were active, the number of cases tried was immense, and the complexity of the issues often considerable, and yet there was no authoritative interpretation of the law; no glosses were collected round the rules; the laws remained short simple and straightforward. This is of course due partly to the peculiar constitution of the law-courts; but it is still more due to the absence of authority of the magistrates. Owing to this, there was no attempt made to distinguish between questions of law and questions of fact. The same men decided both together. Each case came before the court in its entirety, and when the verdict was given no one could tell on what grounds it had been given. Hence there could be no precedent. A precedent is only possible when an authoritative exposition can be given of the law, in such a way that it is applicable to other cases, apart from the particular circumstances which were the occasion of it. This could not be done at Athens; for there was no authoritative ruling of the Judge, or formula of the Prætor, and the very nature of the courts prevented their decision becoming a precedent. Again, there was no customary law: there was nothing to which an advocate could

appeal but the written laws, "the laws of Solon." The speechmakers were the only people who were professionally connected with the law, and advocates are only of use in developing a system of law when the court before which they plead is itself composed of professional lawyers.

One result of this again is the peculiar nature of the Athenian laws. They are as a rule the concise statement of some general principle. They are put in such a form that they can be understood and applied by a court of laymen. Elaborately drawn up laws full of technical phraseology which aim at covering every possible case, are really much easier to apply than the apparently simpler rules; but they can only be used by trained minds and memories. At Athens no one was specially trained. It was moreover the absence of any authoritative explanation of the law which caused the Athenians to be so particular about their laws. Inconsistencies in the law and obscurities of expression are not of great importance where the interpretation of the laws is the professed occupation of a large and organised body of able men. The law will eventually be hidden and superseded by the interpretation, and the goodness or badness of the law be of little moment. At Athens, where each case had to be decided by inexperienced people, any inconsistency in the laws would destroy all confidence in the justice of the courts, and so the activity which in other countries is devoted to elaborating the law and making it more complete, at Athens was spent in simplifying and shortening it.

This department shows, I think, more clearly than any other, how true it is that the power of the Assembly depended on the absence of special ability in the magistrates and officials; and why it was that election by lot was so essential to the democracy. A consideration of this will convince us how far all modern states are from being what a Greek would have called a democracy. It will be an interesting problem in the future to see to what extent consistent democrats will succeed in doing away with what they ought to consider their most formidable enemy—a class of trained lawyers.

*Relation
of the
legal
system
to the de-
mocracy.*

CHAPTER VI.

ADMINISTRATIVE OFFICIALS.

*Committees of
the Assembly and
council.*

THE principles which prevailed in the finance administration were consistently carried out in all other parts of the public service. The immediate control over each department of the state and the responsibility for the proper management of every separate public institution was placed in the hands of a special board of 10 men annually appointed by lot. Each of these was constitutionally a committee of the Assembly, or the council, and it was by means of these committees that the larger bodies kept up their control over the innumerable details of public business. The actual work was done by public slaves and by contractors; the duties of these committees were normally to inspect and control the work, so as to ensure that it was properly done.

It is impossible to give an account of all of these committees. The system will be best explained by investigating a single department which may be taken as typical of the others.

*ἐπιμεληταὶ
τῶν
νεωρίων.*

Among them, those of whom we have most knowledge, are the inspectors of the dockyards. I propose therefore to give a short account of their

duties. This will show better than anything else the sort of work which these committees had to do; for the duties of the *ἐπιμεληταὶ τῶν ἐμπορίων*, and even of the *σιτοφύλακες*, or the *μετρονόμοι*, and other boards must have been to some extent like theirs. That is, as I shall explain, they had to see that the wishes and decrees of the people were carried out; they had to exercise for the people the control and superintendence over its servants and workmen; and they had to report and bring to trial all who were guilty of neglect of duty¹.

Each year there was appointed a board of men, *ἐπιμεληταὶ τῶν νεωρίων*, as superintendents and inspectors of the dockyards. We have no direct information as to the method of their appointment, but I think that we shall be justified in assuming with Boeckh² on the analogy of all similar offices that they were appointed by lot³. An examination of the duties they had to perform will show that this is in itself not improbable. Apart from this, we find by the lists which we possess that they were ten in number, and were chosen one from each tribe, and that re-election if not impossible at least was very

¹ I am entirely indebted to Boeckh for my account of these inspectors. His edition of the inscriptions containing their reports and accounts, published as an appendix to his *Staats-haushaltung der Athener*, contains a great mass of information. The inscriptions discovered since he wrote, which are now published in the 2nd volume of the *Corpus*, add little to our knowledge. I refer to Boeckh's edition by Roman numbers, but always add the reference to the *Corpus*.

² p. 48.

³ C. I. A. i. 77 shows us that they existed in the 5th century.

rare. Not a single case occurs of which we have knowledge; and, though our lists are very fragmentary, they contain at least enough names to show that re-election, if it ever occurred, was a great exception. I should incline to believe that it was unknown.

*Annual In-
spection.*

The duties of these *ἐπιμεληταί*, as appears from the inscriptions, were during their year of office to make a full inspection of the dockyards, and draw up a complete list of all the ships and fittings which they contained; as well as to enter in it all ships which were at sea, and any articles which were missing, together with the name of the person who was responsible for replacing them. When the board came into office at the beginning of the official year, they received a list from the retiring board. It would then be their duty to make a careful inspection of the dockyards, and see whether the list was correct. If anything which was entered in the *στήλη* was not forthcoming, the retiring *ἐπιμεληταί* with their secretary (*γραμματεὺς*) were responsible, and had to replace it; and it was the duty of the new board to institute proceedings for the recovery of this as of all other debts¹. This inspection was probably a work of considerable length: it went into great detail; and all the fittings of each several ship had to be examined. Besides the inspection, the chief duty of the *ἐπιμεληταί* was the collection of out-

¹ C. I. A. ii. 811 (xv. xvi.) c. 166, *τάδε ὀφείλουσιν οἱ τῶν νεωρίων ἐπιμεληταὶ οἱ ἐπ' Ἀντικλέους ἄρχοντας καὶ ὁ γραμματεὺς αὐτῶν τῶν σκευῶν, ὧν γράψαντες εἰς τὴν στήλην οὐ παρέδωκαν ὄντα ἐν τοῖς νεωρίοις.*

standing debts. In all cases where anyone was in debt to the dockyards, the ἐπιμεληταί had to institute proceedings, and if the debt were disputed they were the presiding officers in the jury court which tried the case.

Debts to the dockyards might arise in three ways: *Debts.* either (1) the preceding ἐπιμεληταί had not handed over everything which according to the accounts ought to have been forthcoming¹. (2) The trierarchs returned a ship not in proper condition, or with some of her furniture missing. (3) New materials had not been delivered by the builders, or the materials delivered were bad². Of these two latter cases I shall speak presently, but for the present it is sufficient to point out that normally all debts of which the ἐπιμεληταί had cognisance were for the non-delivery of certain goods; and the suit was properly for the recovery of the goods, or an equivalent. The inspectors were responsible to the state. They had at the end of their year of office either to deliver over all goods to their successors in good condition, or show that the state had received a substitute. If in such a suit the defendant paid the money, the sum was not paid to the inspectors, but to the Apodectai. This is at any rate expressly stated in many cases, and when it was paid to the inspectors, they did not keep it in a fund of their own,

¹ l. c. 803, (x.) d. 4—13. Also Dem. in Androt. 63, where Σάτυρος, an ἐπιμελητής, has to collect a large number of such debts.

² l. c. 803 (x.) c. 128, Εἰθυνοῦς had delivered oars which were useless (ἀδόκιμοι). Cf. also 811 (xvi.) b. 164 etc.

but at once paid it into the state chest¹. Hence they had no direct responsibility for money, and in drawing up a list of what was handed over to their successors they had no money to enter.

The general inspection and the recovery of debts were then the ordinary duties of the inspectors; but if, as of course must have happened every year, any triremes were to be put into commission, the inspectors had to take special account of these.

The proceedings were as follows. The Assembly would decide to send an expedition of one or more ships if not for actual warfare, then perhaps to raise tribute, found a colony, protect the corn ships, escort an embassy. The vote of the Assembly would generally determine the number of vessels required, and according to circumstances would go more or less into details as to the fittings which were necessary². Generally however the decree which ordered the expedition to be sent out would commission the council to look after all details³. The appointment of the trierarchs rested with the generals, and then it was the duty of the inspectors to hand over the required number of ships to the trierarchs. They had to see that each ship was fully fitted out, and take a careful list of all which it contained. When the expedition was over, the trierarchs had to deliver

¹ l. c. 803 (x.) d. 133, p. 212. *ἐς τὸ βουλευτήριον—τοῖς ἀποδεκταῖς*. 809 (xiv.), d. 62 etc.

² l. c. 809 (xiv.) a. A special *ψήφισμα* orders that certain ships should be provided with two additional *ὑποζώματα*. They were as Boeckh points out "bound for the stormy Adriatic."

³ Also elected officials (*ἀποστολεῖς*) could be appointed to help in the work and supplement the inspectors.

up the ships again to the inspectors, and to make good all loss and damage, except such as was due to storms, or fighting. The published accounts contain the record of a great number of debts, varying from a whole ship to an oar, or a sail. If however the ship had been damaged in battle, or during a storm, (*κατὰ πόλεμον, κατὰ χειμῶνα*) the trierarch had not to make good the loss. When this had happened, he would report the matter to the inspectors; if they accepted the statement, it would be so entered in the annual account of their inspection; if not, the matter might eventually be brought before a law-court, since the inspectors would have to sue the trierarchs for the debt. In one case¹, we find that a dispute of this kind was brought before the Assembly, and a special decree passed declaring that in a particular case damage which had been done to certain ships should be considered to be *κατὰ πόλεμον*, and that in consequence the trierarchs should not be held liable for the loss. The payments of the debts by the trierarchs seem to have been very tardy²; they were often allowed to run on for years. In a few cases the debts were doubled.

These inspectors were thus a committee of the people, whose duty it was to control the administration of the dockyards: they did not do anything themselves, and they had no power to order anything to be done, but they had to see that all orders of the

*Character
of their
duties.*

¹ l. c. 809, d. 138 etc.

² l. c. 803, x. contains records of old debts paid by trierarchs; in several cases the debt was not paid till after the death of the man who had incurred it, when it was paid by his heirs.

Assembly and council were properly executed, and they had to keep a constant record of all which happened in the dockyards, so that information might be easily accessible when required. To take a special instance. If new triremes were required, the council would have to send to the office of the inspectors for information as to the exact number and condition of the triremes; they would ask what number were at sea, how many were seaworthy, and which would be likely soon to want repairs. Then, acting on the information given by the inspectors, the council or the Assembly would order new triremes to be built. This would be the work of the *τρηροποιοί*¹. When the triremes had been built, they would be handed over by the *τρηροποιοί* to the inspectors; who would then make a complete inspection in order to see whether they had been built in accordance with the orders of the council, and whether the work was properly done. The result of this inspection would be entered in their annual report. If the work were badly done they would institute proceedings against the *τρηροποιοί*, or, if anything were missing, against their *ταμίας*. If, as would sometimes happen, the inspectors failed to call attention to any defect in the execution of the order, they would themselves be responsible, and proceedings would be instituted against them by the next board.

The inspectors, then, were appointed by the people to act as stewards or bailiffs. The people was the

¹ It is unfortunate that our knowledge of these officials is very small. [See Appendix.]

owner of a large business establishment; the inspectors had to do the work of superintendence over the workmen which the owner had not time to do himself. They were a committee of the Assembly, or council, who were appointed by lot because they represented the whole people. The whole of the demos could not go together to the dockyards to see that the new ships which had been ordered were properly built, so they deputed a few of their number to do so, and as a matter of course, as in all such committees, made the appointment by lot.

The duties of the *ἐπιμεληταὶ τῶν νεωρίων* were indeed such as could be perfectly well performed by any intelligent citizen. They presupposed, it is true, a certain knowledge of naval matters. The inspectors must know the difference between *ταρροί*, *πηδάλια*, and *κλιμακίδες*. They must be able to judge whether a trireme was returned by the trierarch in proper repair; and, at times, had to decide whether the oars supplied by the builders were in proper condition, or not. But knowledge of this kind was just the sort of knowledge which an ordinary Athenian citizen would possess, or at least could easily acquire. If he had never himself been to sea, he must have constantly been to the Piræus; the condition of the navy, improvements in the triremes, the conduct of trierarchs were among the subjects which would constantly come up for discussion in society, in the law-courts, and in the *ἐκκλησία*. And a man who was not a judge of the comparative merits of two triremes could still count how many holes there were in a sail, and see whether any ropes were wanting in the

rigging. An inspection of the kind which was required from them could perfectly well be carried out in this way.

If then we can allow this, the advantages of making the appointment annual and choosing the inspectors by lot are obvious. It was the best guarantee against fraud. If the appointment had been for a number of years, there would have been a great temptation to connivance by the inspectors with the people whom they had to look after. And had the office been elective, the rich trierarchs and rich contractors by using their influence at an election might, as has often been done since, have managed to procure the election of men who, they could be sure, would not interpret their duties too strictly. With a board of ten inspectors, appointed annually by lot, to whom re-election was forbidden, there was at least every chance of avoiding fraud, or culpable negligence.

We are unfortunately without any information which will help us to decide from what class of people the inspectors as a matter of fact came. Boeckh¹ supposes that they were generally men who in their private life had to do with ship-building and ships. He employs this conjecture to account for the fact that in some cases they seem to have appropriated material which could otherwise be of no use to them; and in one case the brother of a *ταμίης τῶν νεωρίων* possesses *κωπέϊς*, i.e. wood for oars. The conjecture is probable in itself; but apart from this one case, which may be exceptional, there

¹ p. 48.

is nothing to prove it. Of the names which have been preserved there are few of which we know anything. Among them it is interesting to notice that the name of Plato occurs; if, as is probable, this is the philosopher, it will show that men of high birth were at least sometimes appointed to this office; and probably implies that men were appointed to it not with their own consent, but as nominees of the officials of the tribe or by the council.

In these inspectors we have one instance of the application of the lot to administration. There were many such boards; every department of the internal government was presided over by a similar committee. Of the work of most of these committees we have little knowledge; but what we are told points to the fact that, like the inspectors of the dockyards, their duties were primarily those of inspectors or superintendents, though to these were added in most cases judicial functions. The city police, the markets, the corn market, were each under such a board, who had to see that the laws were carried out, and whose office was the place where all information concerning the particular matter was brought, all complaints made, and, to some extent, disputes considered. *Other committees.*

Each of these boards or committees had subject to it a number of slaves, and had the control over them as well as over the paid workmen and contractors. The boards themselves were not necessarily composed of specialists; and it was the principle of the democratic state that every citizen should, at some time, be a member of some such committee. That this should be so, was ensured by

the method of appointment, combined with the large number of men required, and the absence of re-election. It is the most striking feature of the Athenian state that each citizen had in this way his share in the individual responsibility which attends office. This was a necessary addition to the irresponsible power which they enjoyed as members of the Assembly and the Law-courts.

CHAPTER VII.

THE ADMINISTRATION OF THE DIVISIONS OF THE STATE.

IF we are to realise the working of this system as a whole, it is important also to take into account the officials connected with the administration of the tribes and demes. For even though in many cases they were not elected by lot, yet the principle of annual office was maintained here also almost without exception. And if we are to appreciate the demands which the administration of the state made on the time of a private citizen, we must pay proper regard to them. For the democratic constitution of the demes exhibits more clearly than any other part of the administration the two cardinal principles of the democracy to which the lot was subservient:—that all important questions should be decided by the direct vote of all members of the community: and that every member should, besides taking his part in this Assembly, also bear his share in the separate administrations by holding, at least for a year, one of the numerous offices.

The Athenian state was divided into consider-
ably over 100 demes. All the citizens of full age

*Officials
of the
Demes.*

in a deme formed a body to which was entrusted duties of considerable importance. As is well known, they in the first instance decided on the claim of any individual to be enrolled a member of the deme and so of the city, and they to some extent had to arrange for many *λητουργίαι*. The deme was also possessed of public property, and had considerable expenses, chiefly of a religious nature, connected with the sacrifices and other common celebrations. The business of the deme was generally transacted in a meeting which all members had the right to attend¹. Each deme had however a considerable number of offices. The most dignified of these was that of Demarch, an annual office²: unfortunately we have no information as to how he was chosen. Beside him we find *ταμίαι*, who are associated with the Demarch in several decrees³, and *ὀρίσται*, the nature of whose duties is not very clear. One account tells us that they had to mark the boundaries of public and private possessions; this would make us suppose they were officers of the city, not of the deme⁴. With regard to *εὐθυνοί* who are mentioned⁵, we cannot tell whether they were regular or exceptional officers; we find in one inscription a *εὐθυνος*, a *λογιστής* and ten *συνήγοροι*, and in another ten *αἰρεθέντες* whom we may perhaps identify

¹ For a description of this, cf. Dem. in Eubuliden.

² C. I. A. ii. 585, 579.

³ C. I. A. ii. 570.

⁴ C. I. A. ii. 573^b. Bekker, *Anecdota*, 287, 17. We know from other cases that there were officials called *ὀρίσται*, appointed by the city.

⁵ C. I. A. ii. 371.

with the *συνήγοροι*¹: in one case at least we have mention of *πάρεδροι*. In one inscription we find it determined to choose by lot certain officers apparently for financial purposes. An *ἀντιγραφεύς* who is mentioned was probably a servant, not an *ἄρχων*². Once *ἐπιτιμηταί* are mentioned as elected (*αἰρεθέντες*), but probably for a special purpose³. These are all the administrative officials of whom we have record; but many of the decrees which are preserved record votes of thanks to religious functionaries who have performed their duties honourably. Among them we find *μεράρχαι*, *ἱεροποιοί*⁴, four in number, who had been elected by lot, *σωφρονισταί*, several *ἱερεῖς* and priestesses.

These demes with their Assembly, their property, their elections, their officers, their priests, their festivals, their solemn votes of thanks, their privileges (*προεδρία*, *ἀτέλεια*), and their public records, are a sort of mimicry of the *ἐκκλησία* at Athens; but, petty as in many cases their duties were, we must not pass them by, for their democratic constitution was an essential element in the democracy of the state. It had no doubt been introduced by Cleisthenes, and it is easy to believe that this was the most important part of his innovations. By it he effectually broke the influence of the nobles. In early times it was doubtless the priest-nobles who held the register of the citizens, it was they who

¹ C. I. A. ii. 578, 571.

² C. I. A. ii. 571.

³ C. I. A. ii. 575.

⁴ C. I. A. ii. 580, 581. *οἱ λαχόντες ἱεροποιοί*.

performed the public sacrifices, and did justice in the villages. When all which was formerly done by the *εὐπάτριδες* according to old mysterious usages was done by a meeting of the Demotes assembled at Athens, the democracy was established in the place of the hereditary aristocracy. The reality of the democracy depended on whether the assembly of the Demotes could keep affairs in its own power, or whether officials, permanent or otherwise, should gradually encroach upon it. Disorderly and excited meetings such as Demosthenes describes were necessary to the continuance of the democracy. The keeping of the registers and the management of the *λητουργίαι* were too important for the people to let them escape out of their own hands, even if the power thus lost were gained by elected officials. We should have been glad therefore to know whether it was considered necessary to appoint the Demarch, and other local officials by the lot; but unfortunately on this point we have (so far as I can find) no direct evidence. The very existence of these offices is however of considerable importance, because they would every year put a very large number of citizens into a position in which they would have to deal with public money, and take a leading part in public ceremonial; they would be an important part of the system which aimed at giving to every citizen a share however small in the government, so that he should not only have the power to criticise, but himself have a part of the responsibility.

The tribes. The officials of the tribes were fewer in number; for the tribe had not the unity of a deme and its

administrative duties, though not less important, were different in kind. The most important were electoral; the tribe was in many cases used as an electoral division, but, as I have before pointed out, the absence of any record concerning elections is one of the most remarkable facts about Athenian history. The *ἐπιμεληταὶ τῶν φυλῶν* were doubtless the officials who had to manage the election of many of the officers, but of the way in which it was done we know nothing¹. A passage in Demosthenes² shows us that they were responsible for bringing to the Archons the Choregi from the tribe, but it tells us nothing further.

These *ἐπιμεληταί* were the chief officials of the tribe; the office was annual, but we do not know either their number or how they were elected. Their chief duty was doubtless to act as returning officer at the various elections; but we find from an inscription that they were also responsible for the proper management of the property of the tribe; they are here ordered to go round and make an inspection, to see if it is cultivated according to the inscriptions, and if the boundaries are properly kept, and they are especially warned not to show favour to any individual, nor to put anything before the interest of the tribe, nor to take bribes³. The duties of presiding at meetings, keeping accounts, inspection of property, are precisely those to which according to all analogy we should expect to find

¹ C. I. A. ii. 554.

² Dem. in Midiam, 13.

³ C. I. A. ii. 564.

officials appointed by lot. More than this we cannot say.

Of ταμίαι, who are mentioned, we know nothing¹. The φυλή had as had every other corporation its *ἱερεῖς*: it is an interesting coincidence that almost the only one mentioned appears to have been an uncle of Demosthenes².

*Private
societies.*

When we pass from the administrative divisions of the state to societies which have no direct connection with the government, we find that the administrative officers are (where we have information) invariably elected, while the religious,—the *ἱερεῖς*, *ἱεροποιοί*—, are generally elected by lot; and I am told that the same is true of similar corporations in other parts of Greece.

It seems then as if among them we meet with the religious use of the lot, and it is reasonable to suppose that where the priest was chosen by lot it was that the god might himself select his own minister. We notice moreover two other facts. In these societies the administrative officials were certainly not in all cases annually elected, while the *ἱεροποιοί* are always spoken of as οἱ ἀεὶ λαγχάνοντες, which, though it does not necessarily mean annual appointment, suggests that the office was never held for long; in some cases we find mention of annual appointment³.

*Religious
officials.*

With regard to the religious officials of the Athenian state, it does not seem possible to lay

¹ C. I. A. ii. 564.

² C. I. A. ii. 554^a.

³ C. I. A. ii. 611, 613, 619.

down any certain principle. Some were hereditary in certain families, some were elected and were officers of much dignity but little importance, others were chosen by lot. The reason was doubtless in each case an historical one. I think however it is not out of accordance with the recorded facts to say that, with the exception of the hereditary offices, all religious officials whose duties were continuous were chosen by lot¹, while those who were appointed only to perform a single act on one day in the year, or one day in four years were elected by the people. This fact, if true, will show how much the Athenians were in the matter guided by convenience, and how little by religious tradition. Knowing how much the power of the old aristocracy had depended upon their religious privileges, we can understand that the establishment of other functionaries, whether chosen by lot or by election, would be important as securing to the democracy freedom from aristocratic influence in its public acts of worship.

I began this essay by pointing out that the democracy meant the undisputed supremacy of the Assembly in all matters. This survey of the different offices in the state draws our attention to another and not less important aspect of it. The complete democracy meant not only that the people assembled together should govern the state, but that each individual should also take his part in the work of administration. There was to be no class from which alone magistrates were chosen, nor were the

*Great
number of
men con-
cerned in
adminis-
tration.*

¹ Dem. in Eubuliden, 46, the priest of Heracles is chosen by lot from among men who are nominated by popular election.

officials to form a class of themselves. Democracy meant self-government in the fullest sense of the word: each man had his share in the general deliberations, he had his turn for a seat in the council, which was the central office of the whole, and he had also to take his part in different offices. Besides these city offices, each man belonged also to the smaller corporations of the tribe, the deme and the phratría, each of which made large demands on his time: he had to attend meetings of the whole corporation, and had moreover from time to time to fill one of the numerous offices connected with it, or serve on some committee appointed by it. It is no exaggeration to say that most Athenians must have spent a large part of their life in the performance of public duties¹.

And if we look at the democracy from either aspect: whether we regard the supremacy of the Assembly, or the share which each citizen took in all public business, we shall find that election by lot was an important and essential part of the system. It broke down and weakened all bodies so as to make of every office nothing more than a committee of the Assembly; and it also supplied a simple means of overcoming the difficulty of appointment, so as to ensure in a rough way that all citizens should have a share in the work of the state.

*Criticism
on the
system.*

The common criticism made on this system is that it aimed at an equality where no equality was,

¹ In order rightly to appreciate the number of men occupied in public business we must remember that the Archons, Thesmothetai, and many other magistrates were helped by assessors (πάρεδροι) who during their terms of office acted with them.

for it put men of character and ability on the same level with those who had neither. Now if this is said of the high office of governing the city, it is not true, because there has never been a state where power was so exclusively made the prize of ability: ability not always of the best kind it may be. But if free competition is the best way of finding ability, Athens honestly tried to find it. The orators might be wanting in many qualities, but at least they must have had the appearance of wisdom and character. Power belonged to that man who in perfectly free and open competition could win and keep for himself the most influence. The test might not be a perfect one. I do not know that a better has yet been devised. And though Athens may have suffered from unscrupulous politicians and unwise ones, we cannot say of her that she was governed by incompetent or insignificant men. If again it is objected that it is abilities of a humbler kind which were neglected, and that in the appointment of subordinate officials a difference should be made between men; it will be sufficient to answer that at any rate the work at Athens was well done. So far as we can see the administration of the state was more regular, more honest, more successful in every way than that of any other city in the ancient world, and (though where the work is so different, the comparison is hardly fair) than that of most states in modern times. The Athenians obliged every one to take his share in the work, they made the work of every one individually easy, and if he did not do it they killed him. The result was that the work was done. The most

potent attempts to obtain and secure able officials do not always succeed; the Athenians were sure that the men they appointed were not generally below the average in ability and character, and that they would not deteriorate in office. There are perhaps not many states of which the same could be said.

Injustice is often done to the Athenian constitution because we try it by too high a standard. Thucydides and Plato have left us their criticisms on it. These criticisms are I believe completely true: but when we recognise the truths of the picture of the "democrat" drawn by Plato, and read the account which he and others have given of the gradual demoralisation of the Athenian people, we ought to remember that everything with which they charge Athens would *mutatis mutandis* apply with equal force to any other society which has ever existed. The greatest complaint brought against the democracy was that it was short lived. The Greeks were apt to reckon the excellence of institutions by their permanence: in this matter we have had more experience than they had, and are prepared to recognise the fact that the more efficient a constitution is the more likely it is to generate economic changes which will soon make it antiquated and useless. That the democratic constitution lost its peculiar effectiveness by the middle of the 4th century is no reason for refusing to recognise its merit. We do not question that the government of Elizabeth was wise and strong because the system was destroyed in the next genera-

tion. So long as a state has political life, every form of government must bear in itself the seeds of its own destruction.

And with regard to the other charges brought against it, all I ask is that besides comparing it with the ideal state of Plato we should also compare it with other states which have existed in this world. The most constant accusation brought against the Athenians is dishonesty. We constantly hear of fraud at Athens; it was a frequent charge in the law-courts, and historians, led by the speeches of the orators, have concluded that the Athenian government was exceptionally corrupt. This corruption is then laid to the charge of democratic government and especially of the lot.

*Prevalence
of fraud
at Athens
much ex-
aggerated.*

But it is surely dangerous to accept as literally true the statements of the orators; we know that in many cases the accusations were false, and, even apart from this, frequent trials for peculation are not necessarily a sign of an exceptionally corrupt administration. Where corruption is worst, it will not be found that convictions are frequent. The sign of organised and habitual fraud is a general repose and outward quiet, interrupted occasionally by some great exposure and outburst of indignation. The constant activity and watchfulness which is necessary to procure convictions, is in itself a sufficient guarantee against peculations being the established thing. Fraud is easy where affairs are secret, confined to a few persons, complicated, and where each individual is allowed much freedom of action. But at Athens every obol which was received by any official

was entered, and the records made public: how he had to use the money was clearly laid down: he had little freedom of action, so that it was impossible to hide the disappearance of any sum. But I imagine the most efficient guarantee against the prevalence of serious fraud was to be found just in the fact that the officials were so numerous and that they were elected by lot for a short period. Whenever a certain class of people hold office and others are positively excluded, it is easy for the officials to exact overdue sums, and appropriate the surplus. The outside public cannot defend itself: it is ignorant and intimidated. This was made impossible at Athens because there were no secrets of office. Fraud arises when any individual holds the same office for long, or is often re-elected; in such cases the perquisites of office grow, and the permanent official has a position of advantage against all unofficial men: at Athens in the democratic state this was not the case. Fraud is especially liable to occur when officials are elected, because those who are likely to gain by the fraud will use all their influence to elect men who will give them an opportunity of winning. This happens constantly in America and other democratic states of modern times, and, under slightly different forms, happened constantly in the later Roman Republic. It was rendered impossible by the lot; the more so because the lot might associate men who had no acquaintance with one another and who could not, during the short period they were in office, acquire the mutual self-confidence which is necessary to community in fraud.

The Greeks no doubt were not an honest race, but it was not the democracy which made the Athenians untrustworthy. So far as we can see the framers of the constitution had recognised the national vice, and took every pains they could to counteract it; it was one of the merits of the democratic system that it made fraud so difficult. It was a noble attempt, and it was to a great extent successful. There was a good deal of petty dishonesty at Athens, many men made a little money out of the public service. But we know of no instance in which we can say that the public welfare was seriously injured by extensive frauds or official incompetence as was constantly the case in aristocratic Rome and England. The Athenian people perhaps wasted their money—but they did it themselves; it was not lost and squandered by the officers of the state¹.

I have tried to analyse one of the most remarkable and most characteristic features of the Athenian constitution. If the view which I have taken be correct, election by lot was of the very essence of the democracy. And the investigations which lead to a recognition of this fact throw light on a peculiarity of the democracy which distinguishes it from most other political systems. Whether the democracy was good or bad, is a question which has been

Characteristic of the Athenian state.

¹ It is very doubtful whether the administration of local matters in many English towns would stand a comparison with that at Athens. It may I think be safely said that the gigantic corruption which is said to prevail in Russia, Italy and America now, and which was common in England not so long ago, would there have been quite impossible.

sufficiently debated. It probably developed the energies and activities of the Athenians more fully than any other system could have done: so far as it did this we must approve of it, though for this, as for every other system, there came a time when altered circumstances rendered it no longer so efficient. But what is most striking in it is the clearness of thought with which certain principles of government are apprehended, and the boldness of execution with which they are put into effect. Living constitutions are generally a compromise between various principles. Attempts to frame a constitution in accordance with some single general principle have nearly always failed. But in describing the Athenian administration, one often feels as though one were describing the typical state of a political thinker. It is difficult to conceive of a state in which political equality could be more completely attained. And yet notwithstanding this obedience to an idea, which we can trace in the most important branches of the administration, there is a prudence and sobriety in the arrangements which is wanting in most polities. So far as human foresight could, the builders of the constitution had guarded against the internal dangers which might arise. The Athenian democracy is as a work of art unsurpassed: it has the great characteristic of all good work, in every detail we find laborious endeavour to express a clear and definite idea: and the result is so simple and so harmonious that it is only after a somewhat minute examination that we discover the labour expended on it. The conditions which made this

possible will probably never occur again; but the scientific value of the experiment is great: it was the first democracy: the word Democracy was invented as a name for it: all other democracies in Greece were a more or less successful imitation of it, and if we want to know what a complete democracy is we can do nothing better than analyse it. If we do this we shall understand how far any modern country is from being a true democracy, and we shall also see how as states become more democratic they develop the most characteristic features of Athens. It would hardly be an exaggeration to say that a state begins to be democratic when the objects for which election by lot was introduced first become a conscious object of desire. We see this clearly in America. Elective assemblies are essentially undemocratic. In America, where the feeling is more democratic than the machinery, we are told that a recognition of this is growing, and it is becoming unusual to re-elect Congress men; it is only fair, as men say, that each of the local politicians should have a chance; it is unfair and undesirable that a few men, because they are a little cleverer or a little more fortunate than others, should have a monopoly of the most valuable political instruction. The Athenians felt this, and gave complete expression to the feeling by allowing to every citizen in turn a seat in the *βουλή*. The great movement which is causing the break-down of representative institutions in the most democratic countries is due to the desire felt by the mass of the people to give their verdict on each important act, and to make of the assemblies a com-

*Ancient
and
modern de-
mocracies.*

mittee in which business should be arranged so as to be brought directly before the people. The English are in a confused way aiming at this. In the states of North America a closer approach is made to it by restricting very closely the powers of the state governments. In Switzerland this is still more openly done by the institution of the Referendum. If we want to see the real end at which this tendency is directed, we need only look to Athens. There the desired end was attained by purposely weakening the smaller assembly which would otherwise have governed the state: this was done by means of the lot; and it is not easy to see how else it could have been done. It is a curious confirmation of the reasons I have given why there was no party government at Athens, that in Switzerland, where direct government by the people is less remote than in any other country, the Executive Council is in no way a party body.

But if in some modern states the peoples are in the way to win for themselves the full and direct sovereignty, they are still far from imitating the other characteristic of the Athenian Democracy. There, as we have seen, not only did the people collectively rule the state, but also these same men individually had, each in his turn, a share in the experience and responsibility of office. The centralised bureaucracy of the modern democratic state is far distant from what the Greeks called democracy. There if a man was a full citizen, he had not merely from time to time to give a silent and irresponsible vote in the Assembly or the law courts; he had to

experience the honours and dangers of office. This could only be because the Athenian democracy was an aristocracy. It had all the characteristics of an aristocracy. It made the assumption that each citizen had the time and ability to undertake public duties. It was there held true that no man could be a good citizen whose life was fully occupied in earning the bare necessities of life. The Athenians had in fact that respect for leisure which is so characteristic of an aristocracy. Hard work was with them a disqualification. Men did not believe in the dignity of labour. The existence of the democracy depended on slavery. Slavery is now impossible. Our modern democracies are no more aristocratic. If they ever become so, it will be when the use of machinery is so far developed and society reorganised in such a way that the greater part of the population will be able, as the wealthy classes now do, to devote a portion of their ample leisure, not only to the discussion of political questions but also to the management of public business.



APPENDIX.

ON THE Πολιτεία τῶν Ἀθηναίων.

IT has generally been maintained that the lot was not used at Athens before Cleisthenes (so Grote, Hermann, Busolt, Gilbert, Dunker, Lugebil, Müller-Strübing). Schömann recognised that this could not be considered in any way certain; and Fustel de Coulanges, by reasoning which had never been answered, contended that it was probably an institution of very great antiquity. This view is supported by Aristotle. In ch. 4 he describes a constitution attributed to Draco: in it all officials are chosen by lot. βουλευέειν δὲ τετρακοσίους καὶ ἓνα τοὺς λαχόντας ἐκ τῆς πολιτείας· κληροῦσθαι δὲ καὶ ταύτην καὶ τὰς ἄλλας ἀρχὰς τοὺς ὑπὲρ τριάκοντα ἔτη γεγονότας. It would, however, be very unwise to build any argument on this: for, as I hope to show elsewhere, there are serious reasons for doubting the authority of the whole passage. Even, however, if this statement be not genuine it does not much affect the particular matter; for in ch. 8 we are told that Solon τὰς ἀρχὰς ἐποίησε κληρωτὰς ἐκ προκρίτων, οὓς ἐκάστη προκρίνει τῶν φυλῶν, and in *Ar. polit.* II. 12 we are told that Solon made no change in the manner of electing the magistrates. So, whether ch. 4 be genuine or not, we have considerable authority that the lot is older than Solon. Fustel de

Early history of the Lot, p. 88 etc.

Coulanges had argued that this must be the case, for the lot being an institution of religious origin must be of great antiquity. This is an interesting and valuable confirmation of his whole method.

As to the details of the constitution before Draco, there is of course no authentic tradition. In the times of Solon the lot does not appear to have had much political importance, and during the following period it seems almost to have fallen out of use so far as the Archonship is concerned. It appears that in the contests for the Archonship after Solon direct election must have been practised, and for the 26 years after the expulsion of the Peisistratidae the lot was not used (ch. 22). The method of statement seems, however, to imply that during the tyranny Archons were chosen by the lot. If this be the case Cleisthenes did away with the lot, and it was reintroduced later. The opinion of Grote, and others, that Herodotus was mistaken when he says that Callimachus was chosen Polemarch by lot, is then supported: on the other hand, it was reintroduced before the Archonship of Themistocles and Aristides. The argument therefore that the lot cannot have been introduced till later, for otherwise Themistocles would not have been archon, must be dismissed. At this time the lot was only used to decide which of a limited number of men nominated by the tribes should be appointed. Under Solon each of the 4 tribes nominated (*προκρίνειν*) 10; and from these 40 the 9 Archons were chosen by lot¹. Cleisthenes altered the number of the tribes to ten, and when the lot was reintroduced, each tribe nominated either 50 or, more probably, 10 (ch. 22 with Mr Kenyon's note).

¹ We can now understand to what Isocrates was referring in the passage quoted on p. 39.

Originally only πεντακοσιομέδιμνοι were eligible to the Archonship; at some unknown period ἰππεῖς were admitted¹. It was not till 457 that ζευγῆται could hold this office. Apparently the law which required this qualification was never repealed, but practically it was not put into force (ch. 7).

What is of greatest importance, however, Aristotle never tells us: *i.e.* when the lot was first used for the previous nomination by the tribes instead of popular election. In ch. 8 he tells us that the change was made, but gives nowhere any information as to the date.

The account of the Areopagus in ch. 23 is valuable, *Areopagus*, p. 46. for it shows that although the council consisted of men who had been Archons, and the lot was used in the election of Archons, the Areopagus during the Persian wars still showed more energy than the στρατηγοί. It ought to be remembered however, that at this time most of those who sat in the Areopagus must have been Archons before the year 487. The fall of the Areopagus would coincide with the time when the last of this generation had died out.

From ch. 55 we learn that the 6 Thesmothetai with their γραμματεῖς and the 3 other Archons were chosen as a college of 10, one from each tribe.

The statement of chapter 18, τὰς δ' ἀρχὰς ἐποίησε κληρωτὰς ἐκ προκρίτων, seems to apply not only to the Archonship. The other offices which existed at that time must also have been filled in the same way. These were, as we learn from ch. 7, the ταμίαι, the πωληταί, the

¹ This was perhaps in the time of Cleisthenes. It is possible however that the word πεντακοσίων in ch. 22 is a corruption, and the sentence gave the property qualification. I have suggested ἐκ τῶν προκριθέντων ὑπὸ τοῦ δήμου τῶν πεντακοσιομεδίμνων. *Classical Review*, March, 1891.

ἔνδεκα, and the κωλακρέται. It was not, I believe, known before that the first three of these offices were of such antiquity. The early use of the lot for them is remarkable. It appears also that the members of the βουλή of 400 were selected by lot from the commencement, though probably with the same precautions as were provided in p. 47, n. 1. the case of the Archons. I must therefore withdraw the statement on the subject which I made in the text. Fustel de Coulanges' suggestion which I have rejected will now require careful consideration.

The main thesis contained in the text of the essay is supported by this new work. I will only call attention to the following points :

p. 21 etc. (1) There is nothing to support the attempt to show that the government of Athens was in the hands of an elected official, whether στρατηγός or ταμίας. It is however only fair to say that in many parts the work is extremely defective. It contains practically no account of the constitutions between the years 457 and 412; for the continuous narrative ceases with the former year, and the constitution described at the end of the work is the constitution of the latter half of the 4th century, which was in many ways a very different thing.

It is very strange that no mention is made of the ταμίας τῆς κοινῆς προσόδου. For this work was apparently written at the very time when this office was of its greatest importance, during the time of Lycurgus. It is not improbable that in ch. 43 for τοῦ τῶν κρηνῶν ἐπιμελητοῦ we should read τῶν κοινῶν. It is true that the title οἱ τῶν κρηνῶν ἐπιμεληταί does occur in the *Politics*; nor do I know of any direct authority for the expression ὁ τῶν κοινῶν ἐπιμελητής. This official would however be much more naturally coupled with the ταμίας τῶν στρατιωτικῶν and the οἱ ἐπὶ τὸν θεωρικόν

than a merely subordinate official who looked after the water-supply. Besides, the water-supply was no part of the διοίκησις.

(2) The account of the βουλὴ represents it as *Council*, chiefly occupied with the δοκιμασία and trial of magistrates, i.e. with judicial duties and with administration, *p. 57 etc.* συνδιοικεῖ δὲ καὶ ταῖς ἄλλαις ἀρχαῖς τὰ πλεῖστα. Its probouleutic functions are not treated as of any great importance (ch. 45). At one time it was κυρία καὶ χρήμασιν ζημιῶσαι καὶ ἀποκτεῖναι. This power was taken away from it.

(3) We are told that originally nearly all officials *Demes.* were chosen by the demes: but, owing to corruption, later all were chosen by the tribes except the βουλευταὶ and the φρονοί. For these offices the preliminary election was always by demes. This confirms the suggestion, which was I believe originally made by Kirchhoff, that I have adopted in the text. *pp. 54—56.*

The establishment of this point is of some importance. It would be much easier to maintain the principle of rotation when the elections were managed by small societies, where every individual was known. As the final decision between the candidates was by lot, the elections could not have any party importance. What each deme had to do therefore was to nominate each year at least twice the number of men that would eventually be chosen from that deme. Now if the principle of rotation were really maintained it would probably as a rule scarcely be necessary to have recourse to the lot; men would be elected more or less in order of seniority; the lot would not be more important than it was when used at Rome under the Empire to decide which of two men of equal standing should have his province first. In many cases the Demarch would probably nominate 6 or 8 or 10 of

p. 56.

the members next on the list, and there would be no competition. This will explain how it happens that father and son, or two brothers serve together. Twice as many must have been nominated as there were members, so as to leave plenty for the ἐπιλάχῃσις. Perhaps the arrangement was that each deme nominated twice the required number: half were chosen, and the other half were ready to serve if necessary.

Rotation,
p. 89.

(4) In ch. 4 we have a statement of the principle of rotation clearer than anything hitherto known.

κληροῦσθαι δὲ καὶ ταύτην καὶ τὰς ἄλλας ἀρχὰς τοὺς ὑπὲρ τριάκοντα ἔτη γεγονότας, καὶ δις τὸν αὐτὸν μὴ ἄρχειν πρὸ τοῦ πάντ[ας περι]ελθεῖν· τότε δὲ πάλιν ἐξ ὑπαρχῆς κληροῦν.

This is not the less valuable if, as is probable, it is only by an anachronism that it is attributed to Draco. It ought finally to set at rest any doubt as to what the object of the lot was.

Ch. 24. Aristotle dwells on the great number of public officers there were at Athens; besides the guards, and the Council of 500, there were in all at one time 1400 officials. This again supports the view that every Athenian citizen must have held office in turn.

The passage is such a valuable illustration of the principle laid down in the text that it will be well to quote it:

συνέβαινε γὰρ ἀπὸ τῶν φόρων καὶ τῶν τελῶν καὶ τῶν συμμάχων πλείους ἢ δισμυρίους ἄνδρας τρέφεσθαι, δικασταὶ μὲν γὰρ ἦσαν ἑξακισχίλιοι, τοξόται δ' ἑξακόσιοι καὶ χίλιοι, καὶ πρὸς τούτοις ἱππεῖς χίλιοι καὶ διακόσιοι, βουλὴ δὲ πεντακόσιοι, καὶ φρουροὶ νεωρίων πεντακόσιοι, καὶ πρὸς τούτοις ἐν τῇ πόλει φρουροὶ πεντήκοντα, ἀρχαὶ δ' ἔνδημοι μὲν εἰς ἑπτακοσίους ἄνδρας, ὑπερόριοι δ' εἰς ἑπτακοσίους.

It is impossible at once to estimate the value of the new account given of the different offices. I will only point out:

(1) With regard to the λογισταί. These were of two kinds:

(a) 10 elected from members of the council, who λογισταί, had to draw up the accounts of each office (κληροῦσι δὲ ^{p. 125 etc.} καὶ λογιστὰς ἐξ αὐτῶν οἱ βουλευταὶ δέκα τοὺς λογιουμένους τ[αῖς ἀρ]χαῖς κατὰ τὴν πρυτανείαν ἐκάστην).

(b) There were besides 10 εὐθυνοὶ with 10 πάρεδροι, and 10 λογισταί with 10 συνήγοροι who were occupied with the εὐθυνα of the magistrates (ch. 54).

This supports the view I have taken that the λογισταί had other duties besides those immediately connected with the εὐθυνα. The actual arrangements are however different from what they were in the 5th century.

(2) The plans of the temples were originally βουλή, criticised by the βουλή: but, as their decision was not ^{p. 107.} impartial, the matter was afterwards handed over to a δικαστήριον.

The council exercised also a general superintendence over all public buildings (ἐξέταζεν δὲ καὶ τὰ οἰκοδόμηματα τὰ δημόσια πάντα, ch. 46).

The architects for the ships, as for the public buildings, were elected by the people (ch. 46), and the τριηροποιοί were elected by the council (*ib.*). p. 159.

(3) The accounts of the πωληταί, ἀποδέκται, and ἑνδεκα, though rather fuller than what we possessed, agree with what was known before.

It is however definitely stated that the council had ^{p. 139.} to decide to whom the taxes should be leased (κατακυροῦσιν ὅτῳ ἂν ἡ βουλή χειροτονήσῃ, ch. 48). He adds a full account of the different documents to be drawn up by the πωληταί.

Dokimasia,
pp. 96 etc.

(4) Ch. 55. The account given of the δοκιμασία is remarkable. It seems to point to a very great increase of the arbitrary power of the Dicastes to reject a man without reason, even if he were not accused. We are, however, especially told that this was not the former practice. This implies a greater use of the freedom of rejection on indefinite grounds than I had supposed. It supports, however, my contention that this use was a late development.

After describing the formal question and answer
ἐπειδὴν δὲ παρασχῆται τοὺς μάρτυρας ἐπερωτᾷ, τούτου
βούλεται τις κατηγορεῖν; καὶ μὲν ἢ τις κατήγορος, δοὺς
κατηγορίαν καὶ ἀπολογίαν, οὕτω δίδωσιν ἐν μὲν τῇ βουλῇ
τὴν ἐπιχειροτονίαν, ἐν δὲ τῷ δικαστηρίῳ, τὴν ψῆφον· ἐὰν δὲ
μηδεὶς βούληται κατηγορεῖν, εὐθὺς δίδωσι τὴν ψῆφον· καὶ
πρότερον μὲν εἰς ἐνέβαλλε τὴν ψῆφον, νῦν δ' ἀνάγκη πάντας
ἔστι δια*ψηφίζεσθαι περὶ αὐτῶν, ἵνα ἂν τις πονηρὸς ὦν
ἀπαλλάξῃ τοὺς κατηγοροὺς, ἐπὶ τοῖς δικασταῖς γένηται
τοῦτον ἀποδοκιμάσαι.

p. 133.

(5) The law that only πεντακοσιομέδιμνοι were eligible as ταμίαι, though never repealed, was, we are told, not really enforced.

οἱ ταμίαι τῆς Ἀθηνᾶς εἰσὶ μὲν δέκα κληρωτοί, εἰς ἐκ τῆς
φυλῆς, ἐκ πεντακοσιομεδίδμων κατὰ τὸν Σόλωνος νόμ[ον,
ἔτι γὰρ ὁ νόμος κύριός ἐστιν, ἄρχει δ' ὁ λαχὼν καὶ πάνυ
πένης ἢ (ch. 47).

INDEX.

- Acropolis*, treasure preserved in, 133, 169
- Adriatic*, 64, 158
- Æschines*, elected *πυλαγόρας*, 25 n. 1; accuses Demosthenes, 54; ambassador, 73
- ἀγορά*, 139
- ἀγορανόμοι*, 94
- Agryrrhios*, 115 n. 1
- ἀθλοθέται*, 122, 124
- Alcibiades*, 35, 37
- Alcæonid*, 16
- Allies*, v. *σύμμαχοι*
- America*, democracy in, 145, 179
- Amnesty*, 151
- ἀνάκρισις*, 147 n. 1
- Andocides*, quoted, 95
- Androtion*, 74
- ἀντιγραφεύς*, 167
- Antiphon*, 34
- ἀποδεκταί*, 86, 122, 124, 129, 131 n. 1, 157, 189
- ἀποστολεῖς*, 65 n. 1, 73, 185 n. 3
- Archedemos*, 115 n. 1
- Ἀρχιτέκτων*, 108—9, 189
- Archons*, use of lot in election of, ix., 7, 78 sq.; a sacred office, 7; early history of, 78 sq., 184; judicial duties of, 146 sq.; compared with the *Prætor*, ib.
- Areopagus*, Council of, v. *βουλή*
- Aristeides*, archon, 78, 184; *ταμίας*, 113
- Aristophanes*, quoted, 25, 113
- Aristophon*, 35, 112
- Aristotle*, xiii., xv., 15, 31, 42, 89, (*πολιτεία τῶν Ἀθηναίων*) xv. sq. 183 sq.
- ἀστυνόμοι*, 94
- ἀτέλεια*, 167
- ἀτιμία*, 97, 100
- Ballot*, to be distinguished from the lot, 1
- Beloch*, xii., 22 n. 1, 23 n. 1
- Boeckh*, xii., 21 n. 1, 58 n. 1, 63 n. 1, 113, 155 n. 1, 162
- βουλευτήριον*, 122, 140
- βουλευτής*, power of, 68, 75 sq.
- βουλὴ τῶν Ἀρεοπαγίτων*, fall of, 46; in the Persian wars, 80, 185
- *τῶν πεντακοσίων*, history of, 46; appointment to, 49; membership of, 51, 56; duties of, 51, 57 sq., 187; in foreign affairs, 61 sq.; in administration, 64, 109; in finance, 65, 121 sq.; great powers of, 75; relations to *ἐκκλησία*, 64 (v. *ἐκκλησία*); orators

- in the, 69; judicial duties, 71; publicity of, 69
- Callisthenes*, 35
- Callistratos*, 115 n. 1
- χορηγοί*, 169
- Cleisthenes*, reforms of, 46, 78, 86, 167, 184
- Cleon*, 112, 113, 116
- Cleophon*, 35, 37, 115 n. 1
- Committees*, of the Assembly, 154, 163
- Compulsory office*, 94
- Council*, government by a, 42; in city states, 43; at Athens, 45; v. βουλή
- Ctesiphon*, 37
- Deinarchus*, 10, 37 n. 1, 118 n. 1
- Demetrius of Phaleron*, 78
- δήμαρχος*, 166 sq., 187
- Demes*, used for electoral purposes, 54—5, 187; for financial purposes, 143; officials of, 164 sq.; property of, 165; meetings of, ib.
- δημόται*, 56, 168, 187
- Democracy*, what the Greeks meant by, 17; ancient and modern compared, 18, 26, 179; inverted monarchy, 28; officials in the, 30; contrasted with oligarchy, 90; characteristics of, 42, 135, 137, 171; and lawyers, 145 sq., 153; Isocrates on the, 39; in America, 145, 179; in England, 26, 180; in Switzerland, 180
- Demos*, rule of the, 26; tyrant-demos, 31; relation to parties, 33; v. ἐκκλησία
- Demosthenes*, condemned, 35; *τειοχοποίς*, 73, 107; uncle of, 170; in the Council, 54; quoted, 54 n. 2, 91, 168
- διαγραφείς*, 143
- δικαστήρια*, political importance of, 35, 101, 145
- διοικήσει, ὁ ἐπὶ τῇ ν. ταμίᾳ*
- διωβελία*, 123
- δοκιμασία*, 54 n. 1, 96 sq., 190
- Draco*, constitution ascribed to, 183
- εἰσαγγελία*, 117
- εἰσφορά*, 143
- ἐκκλησία*, 29; relation to the βουλή, 39, 45, 49, 57, 59, 64—9, 110, 124, 158; supremacy of, 30—2, 41—2; business of, 58 sq.; orators in the, 114
- ἐκλογεῖς*, 104 n. 1, 143
- Elections*, in Athens and modern states, 19, 27—8; aristocratic, 15; not party contests, 20 sq.; small evidence about, 25; of finance minister, 21, 113; of generals, 21, 102 sq.; to exceptional offices, 104, 25 n. 1
- ἐλληνοταμίαι*, 93, 95 n. 1, 104 n. 1, 124, 131
- ἐνδεκα*, 94, 141 sq., 185
- England* and Athens compared, 177
- ἐπιγραφείς*, 143 n. 1
- ἐπιλάχῃς*, 54
- ἐπιμελητῆς τῶν ἐφήβων*, 104
- *κρηνῶν*, 186
- *νεωρίων*, 154 sq., 64
- *φυλῶν* v. *φυλή*
- ἐπιστάτης τῶν δημοσίων ἔργων*, 73; not chosen by lot, 105 sq.
- ἐταιρεῖαι*, 33 sq.
- Eubulus*, 21 n. 1, 112, 113
- εὐπάτριδες*, 83, 168

- Euripides*, quoted, 9
εὐθυνα, 125, 189
εὐθυνοί, 189; in the demes, 166
Exceptional offices, 72, 104 sq.
- Finance*, 111 sq.; ministers, 113;
 and the orators, 114; growing
 difficulties, 119; the Council,
 121
Fraud, prevalence of at Athens,
 91, 129, 135, 144, 177
Frazer, The Golden Bough quoted,
 9 n. 3
Freeman, Professor quoted, 51
Fustel de Coulanges, xi., 7 n. 2, 12
 n. 1, 47 n. 1, 81, 183, 186
- Generals*, v. *στρατηγοί*
Gilbert, xi., xii., 23 n. 1
Glaucón, 115
Gorgias, 17
γραμματεὺς τῶν ἐπιμελητῶν, 156
 ————— *θεσμοθετῶν*, 185
Grote, x., xiii., 79, 153
Guards, 188
- Heraea*, lot used at, 38 n. 1
Herald, 139
Hermann, xiii., 98
Herodotus, quoted, 13 n. 1, 78
Hypereides, quoted, 6 n. 1
- Idomeneus*, 79
ιερεῖς, 167; chosen by lot, 5, 170;
 in charge of money, 135; τῶν
 φυλῶν, 170
ieroποιοί, 109 n. 1, 167, 170
ἵππαρχοι, 104
ἱππεῖς, 185
Isocrates, quoted, 16, 39, 119 n. 1,
 184
- κληρωτός*, v. *Lot*
κλιμακίδες, 161
κυαμεύειν, v. *Lot*
κωλακρέται, 130
- Law*, Athenian system of, 151
Lawyers, absence of at Athens, 145;
 influence of, ib.
λητουργίαι, 95, 118, 166, 168
λογισταί, 125 sq., 129 n. 1, 134,
 189; in the Demes, 166
Lot, treatment of the subject, ix.,
 1; various explanations, 3; his-
 tory and origin of, ix., 4 sq., 78
 sq., 183; religious origin of, 4;
 used in appointment of priests,
 5, 170; in the poets, 9; in the
 orators, 10; at Rome, 12; at
 Syracuse and Tarentum, 15; at
 Heraea, 38 n. 1; political use of,
 ix.; democratic, 12; opinion of
 Socrates on, 10, 13; of Aristotle,
 15; used also in other constitu-
 tions, 17 n. 1, 80 n. 1; other
 theories, 16, 20 n. 1; why it was
 democratic, 32 sq., 88, 171 sq.;
 used to prevent faction, 38; for
 the Areopagus, 45; for the Coun-
 cil, 47 sq.; date of introduction
 of, 78 sq., 183; for the archon-
 ship, 79, 184; for other offices,
 85, 185; and rotation in office,
 88; advantages of, 92 sq., 161
 sq.; and compulsory nomination,
 94; and the δοκιμασία, 96; ex-
 ceptions to use of, 102 sq.; when
 abandoned, 87 n. 1
Lugebil, x., 7 n. 1, 38 n. 2, 183
Lysias, quoted, 11, 53 n. 1, 97 n. 1
- Maine*, Sir H., 28, 29

- Marathon*, battle of, 78, 85
μεράρχαι, 167
μετρονόμοι, 155
Müller-Strübing, xi., 13 n. 1, 16, 20, 79 n. 1, 183
- Nicias*, peace of, 67
Nomination of candidates, 4, 25 n. 1; for the Council, 53, 184; for the Archonship, 82; for ἐπιμεληταὶ τῶν νεωρίων, 163; compulsory, 195
- ὀπισθόδομος, 130
Orators, position of, 30, 114 sq.; in the Council, 53, 59; responsibility of, 60 n. 1, 117; their evidence on the lot, 10; on the δοκιμασία, 97, 99
ὀρισταί, 166
- παραγραφή*, 149
πάρεδροι, 172 n. 1, 189
Parthenon, building of the, 73
Pausanias, 82
πηδάλια, 161
Peiræus, 161
Peisistratidae, 184
πεντακοσιομέδιμνοι, 81, 185, 190
Pericles, 21, 35, 55 n. 1, 112—3, 137
φρατρία, 172
φρουροί, 188
φυλαί, 168 sq.; officials of, ib.; ἐπιμεληταὶ τῶν, 95, 169
φύλαρχοι, 104
Plato, ἐπιμελητής, 163; quoted, 8, 88, 174—5
 — *Comicus*, 25 n. 1, 54 n. 1
Plutarch, xvii., 78, 82, 113
πολέμαρχος, 78, 147
πωληταί, 109, 126, 138 sq., 185, 189
- Population* of Attica, 50, 83
πορισταί, 73
Praetor, compared with the Archons, 145
πράκτορες, 126, 140
πρεσβεῖς, 67, 73, 105
Priests, v. *ιερεῖς*
Prime Minister at Athens, 24, 28
προβούλευμα, 58 sq., 67
πρόβουλοι, 60 n. 2, 74
προεδρία, 167
Propylaea, 107
Prosecutions, political, 36
προστάτης τοῦ δήμου, 27 n. 1, 30, 37, 115 sq., 123
πρυτανεῖς, 47 n. 1, 51, 64, 67, 103, 122, 124, 136; lists of, 55; ἐπιστάτης τῶν, 52
Prytaneum, 52
πυλαγόρας, 25 n. 1
- Re-election*, to the Council, 50, 56, 57 n. 2; to other offices, 90 and n. 1, 155
Referendum, 180
Revolutions, 91
Rhodes, 120
Rome, 46, 89, 145, 176, 187
Rotation in office, xvi., 88 sq., 188; for the Council, 49, 187; for the Archonship, 83
- Salamis*, battle of, 85
Schömann, xii., 80 n. 1, 146, 183
σιτοφύλακες, 155
Slaves, 163, 181
Socrates, his opinions about the lot, 10, 13; member of the Council, 53 n. 1
Solon, 46, 83, 183
στάσις, undemocratic, 38

- στρατηγοί, position of, 21; compared to the Ministry, 22; the extent of their power, 28, 103; 102 sq., 122, 124; πρύτανις τῶν, 22—3; αὐτοκράτωρ, 23
- συγγραφείς, 61, 73
- συλλογείς τοῦ δήμου, 63 n. 2
- σύμμαχοι, 62 n. 1
- συνήγοροι, 73, 189; in the Demes, 166
- σωφρονισταί, 104, 167
- Switzerland, democracy in, 180
- Syracuse, lot used at, 15
- τακταί, 71, 104 n. 1
- ταμίαι τῆς βουλῆς, 130
- in the demes, 166
- τῆς θεοῦ, 69 n. 1, 93, 125, 126, 132 sq., 185, 189
- τῶν κοινῶν προσόδων, 23, 113, 120, 186
- τῶν νεωρίων, 162
- τῆς φυλῆς, 170
- τῶν στρατιωτικῶν, 186
- τῶν τριηροποιῶν, 160
- Tarentum, the lot at, 15
- ταρροί, 161
- Taxes, how levied, 110—2, 119
- ταξίάρχαι, 104
- τειχοποιοί, 73, 107
- Temples, building of, 107; plans of, 108, 189
- Themistocles, Archonship of, 79, 184
- θεσμοθέται, 83, 122, 124, 147, 185
- θεωρικόν, ὃ ἐπὶ τό, 120, 186
- Thucydides, quoted, 67, 174
- τοξόται, 140
- τριηράρχαι, 56, 58 n. 1, 66, 158 sq.
- τριηροποιοί, 104 n. 1, 123—4, 159—60, 189
- Triremes, 106, 161
- ὑποζώματα, 158
- Xanthippus, 79 n. 1
- Xenophon, quoted, 6 n. 1, 13 n. 2, 14, 58 n. 1, 103 n. 1, 106 n. 1, 115, 117 n. 1
- ξευγίται, 185
- ζητηταί, 73

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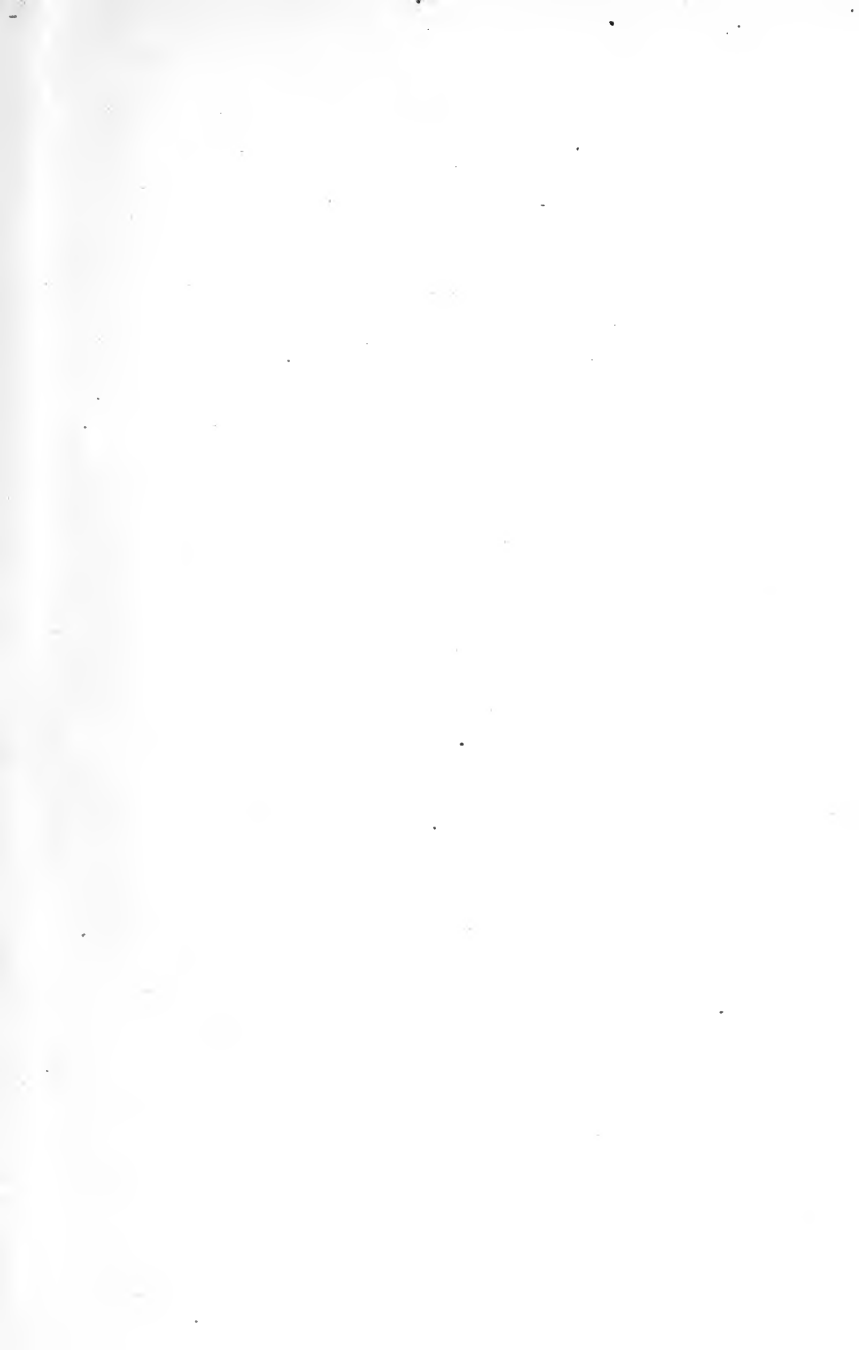
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